

of 157

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**DEFENDANT'S
EXHIBIT**

CASE
NO. 6:23-cv-00007

EXHIBIT
NO. 076

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

STATE OF TEXAS, *et al.*,

Plaintiffs,

vs.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, *et al.*,

Defendants, and

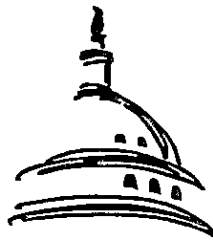
VALERIE LAVEUS, *et al.*,

Intervenor Defendants.

CIVIL ACTION No.
6:23-CV-00007

JUDGE DREW B. TIPTON

INTERVENOR DEFENDANTS'
TAB 76, ECF 175-11



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Cuba: U.S. Policy in the 117th Congress

September 22, 2022

**EXHIBIT
10**

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CRS REPORT
Prepared for Members and
Committees of Congress

Cuba AR_000190



Congressional Research Service
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SUMMARY

R47246

September 22, 2022

Mark P. Sullivan
Specialist in Latin
American Affairs

Cuba: U.S. Policy in the 117th Congress

Political and economic developments in Cuba, a one-party authoritarian state with a poor human rights record, frequently have been the subject of intense congressional concern since the 1959 Cuban revolution. Cuban President Miguel Díaz-Canel succeeded Raúl Castro as president in 2018 and as head of Cuba's Communist Party in 2021. Cuba adopted a new constitution in 2019 that introduced some reforms but maintained the state's dominance over the economy and the Communist Party's predominant political role. In July 2021, anti-government demonstrations broke out throughout the country, with thousands of Cubans protesting poor economic conditions (e.g., food and medicine shortages, blackouts) and long-standing repression of freedom of expression and other basic rights. The government responded with harsh measures that led to the prosecution of hundreds of protesters. The Cuban economy has been hard-hit by the Coronavirus Disease 2019 (COVID-19) pandemic, reduced support from Venezuela, and increased U.S. economic sanctions.

U.S. Policy

Since the early 1960s, the centerpiece of U.S. policy toward Cuba has been economic sanctions aimed at isolating the Cuban government. Congress has played an active role in shaping policy toward Cuba, including by enacting legislation strengthening—and at times easing—U.S. economic sanctions. In 2014, the Obama Administration initiated a policy shift away from sanctions and toward engagement. This shift included the restoration of diplomatic relations; the rescission of the Cuban government's designation as a state sponsor of international terrorism; and an increase in travel, commerce, and the flow of information to Cuba. The Trump Administration began to reverse course in 2017, introducing new sanctions, including restrictions on transactions with companies controlled by the Cuban military. By 2019, the Trump Administration had largely abandoned engagement and significantly increased sanctions, particularly on travel and remittances.

In its initial months in office, the Biden Administration announced it was conducting a review of policy toward Cuba, with human rights as a core pillar, and would examine policy decisions made by the prior Administration. After the Cuban government's harsh response to the July 2021 protests, the Biden Administration imposed a series of targeted financial sanctions and visa restrictions on those involved. In May 2022, the Administration announced several policy changes aimed at increasing support for the Cuban people. The Administration increased immigrant visa processing at the U.S. Embassy in Havana and said it would reinstate an immigration parole program for Cuban families. It eased travel restrictions by reauthorizing flights to cities beyond Havana and reinstating group people-to-people travel. It also eased restrictions on sending cash remittances by eliminating dollar and frequency limits for family remittances and by reauthorizing donative remittances to Cuban nationals.

Driven by Cuba's difficult economic conditions and political repression, among other factors, irregular Cuban migration to the United States has surged over the past year. U.S. and Cuban officials held migration talks in April 2022, the first since 2018. In September 2022, the Administration announced that the U.S. Embassy in Havana would resume full immigrant visa processing in early 2023 for the first time since 2017.

Legislative Action in the 117th Congress

The 117th Congress has continued to support funding for Cuba democracy programs and broadcasting to Cuba. For FY2022, in the Consolidated Appropriations Act, 2022 (P.L. 117-103, Division K) and its explanatory statement, Congress provided \$12.973 million for Cuba broadcasting, fully funding the Administration's request. The law did not specify an amount for Cuba democracy programs, but an estimated \$20 million (the amount requested) is to be provided. For FY2023, the Administration requested \$20 million for democracy programs and \$13.432 million for broadcasting. The House Appropriations Committee's reported FY2023 foreign aid appropriations bill, H.R. 8282 (H.Rept. 117-401) would provide \$12.973 million for broadcasting; the explanatory statement to the Senate bill (S. 4662) recommends providing \$13.891 million. H.R. 8282 also would provide \$20 million for democracy funding, whereas S. 4662 does not specify an amount for democracy funding.

In other significant action, in July 2022, the House rejected H.Amdt. 300 to H.R. 8294 (a six-bill FY2023 appropriations measure), which would have prevented funding to enforce a prohibition on private financing for U.S. agricultural exports. The House and the Senate also approved several human rights resolutions: H.Res. 760 (November 2021); S.Res. 37 (April 2021); S.Res. 81 (May 2021); S.Res. 310 (August 2021), and S.Res. 489 (January 2022). In addition, the Senate approved S. 2045 in July 2021, which would rename the street in front of the Cuban Embassy after a democracy activist.

Cuba AR 000191

Appendix A provides comprehensive information on legislative initiatives on Cuba in the 117th Congress. **Appendix B** provides links to U.S. government information and reports on Cuba. Also see CRS In Focus IF10045, *Cuba: U.S. Policy Overview*; CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*; and CRS Insight IN11937, *Biden Administration's Cuba Policy Changes*.

Contents

Cuba's Political and Economic Environment.....	1
Brief Historical Background	1
Political Conditions.....	3
Human Rights	4
Economic Conditions	7
U.S. Policy Toward Cuba	9
Historical Background	9
Policy Shifts Under the Obama and Trump Administrations	9
Biden Administration Policy	11
Key U.S. Sanctions	12
Debate on the Direction of U.S. Policy	16
Selected Issues in U.S.-Cuban Relations.....	18
U.S. Restrictions on Travel and Remittances.....	18
U.S. Exports and Sanctions.....	20
Democracy and Human Rights Funding.....	22
Radio and TV Martí	24
Migration Issues.....	25
U.S. Fugitives from Justice	29
Trafficking in Persons and Cuba's Foreign Medical Missions	31
Outlook.....	33

Figures

Figure 1. Provincial Map of Cuba	2
Figure 2. U.S. Exports to Cuba, 2007-2021	22

Tables

Table 1. Maritime Interdictions of Cubans by the U.S. Coast Guard.....	27
--	----

Appendixes

Appendix A. Legislative Initiatives in the 117 th Congress	34
Appendix B. Links to U.S. Government Reports	43

Contacts

Author Information.....	44
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Cuba's Political and Economic Environment

Brief Historical Background¹

Cuba became an independent nation in 1902. From its discovery by Columbus in 1492 until the Spanish-American War in 1898, Cuba was a Spanish colony. In the 19th century, Cuba became a major sugar producer, with slaves from Africa brought in to work the sugar plantations. The drive for independence from Spain grew stronger in the second half of the 19th century, but independence came about only after the United States entered the conflict, when the USS *Maine* sank in Havana Harbor after an explosion of undetermined origin. In the aftermath of the Spanish-American War, the United States ruled Cuba for four years until Cuba became an independent country in 1902. Nevertheless, the United States retained the right to intervene in Cuba to preserve Cuban independence and maintain stability in accordance with the Platt Amendment,² which became part of the Cuban Constitution of 1901 and was incorporated into a 1903 bilateral treaty; the United States established a naval station at Guantanamo Bay, Cuba, in 1903, which remains in operation today.³ The United States intervened militarily three times between 1906 and 1921 to restore order. In 1934, as part of President Franklin Roosevelt's Good Neighbor Policy toward Latin America, the United States and Cuba negotiated a new bilateral relations treaty that abrogated the 1903 treaty with the Platt Amendment language.⁴

Cuba's political system as an independent nation often was dominated by authoritarian figures. Gerardo Machado (1925-1933), who served two terms as president, became increasingly dictatorial until he was ousted by the military. A short-lived reformist government gave way to a series of governments that were dominated behind the scenes by military leader Fulgencio Batista until he was elected president in 1940. Batista was voted out of office in 1944 and was followed by two successive presidents in a democratic era that ultimately became characterized by corruption and increasing political violence. Batista seized power in a bloodless coup in 1952, and his rule progressed into a brutal dictatorship that fueled popular unrest and set the stage for Fidel Castro's rise to power.

Castro led an unsuccessful attack on military barracks in Santiago, Cuba, on July 26, 1953. After a brief jail term, he went into exile in Mexico, where he formed the 26th of July Movement. Castro returned to Cuba in 1956 with the goal of overthrowing the Batista dictatorship. His revolutionary movement was based in the Sierra Maestra Mountains in eastern Cuba, and it joined with other resistance groups seeking Batista's ouster. Batista ultimately fled the country on January 1, 1959, ushering in 47 years of rule under Fidel Castro, who stepped down from power in 2006 due to poor health.

¹ Sources for this background section include U.S. Department of State, "Background Note: Cuba," November 7, 2011, at <https://2009-2017.state.gov/outofdate/bgn/cuba/191090.htm>; Rex A. Hudson, ed., *Cuba, A Country Study*, Federal Research Division, Library of Congress (Washington, DC: GPO, 2002), at <https://www.loc.gov/item/2002018893/>; Library of Congress, Federal Research Division, "Country Profile: Cuba," September 2006, at <https://www.loc.gov/item/copr/6711798/>; Leslie Bethell, ed., *Cuba, A Short History* (Cambridge, UK: Cambridge University Press, 1993); and Hugh Thomas, *Cuba: The Pursuit of Freedom* (New York: Harper & Row, Publishers, 1971).

² U.S. Senator Orville Platt introduced an amendment to an army appropriations bill that was approved by both houses and enacted into law in 1901.

³ For background on the naval station, see CRS Report R44137, *Naval Station Guantanamo Bay: History and Legal Issues Regarding Its Lease Agreements*.

⁴ National Archives, Milestone Documents, "Platt Amendment (1903)," February 8, 2022, at <https://www.archives.gov/milestone-documents/platt-amendment>.

Figure 1. Provincial Map of Cuba



Source: Congressional Research Service.

Although Fidel Castro promised a return to democratic constitutional rule when he first took power, he instead moved to consolidate his rule, repress dissent, and imprison or execute thousands of opponents. Under the revolutionary government, Castro's supporters gradually displaced members of less radical groups. Castro moved toward close relations with the Soviet Union, and relations with the United States deteriorated rapidly as the Cuban government expropriated U.S. properties. In April 1961, Castro declared that the Cuban revolution was socialist; in December 1961, he proclaimed himself a Marxist-Leninist. Over the next 30 years, Cuba was a close ally of the Soviet Union, depending on it for significant assistance until the dissolution of the Soviet Union in 1991.

Castro ruled by decree until 1976, when he became the country's president (technically, president of the Council of State) under a new constitution that set forth the Cuban Communist Party (PCC), which Castro headed, as the leading force in state and society. When Fidel stepped down in July 2006, his brother Raúl—Cuba's longtime defense minister and first vice president—became provisional president. In 2008, after Fidel announced he would not be returning to government, Cuba's National Assembly chose Raúl as president. He went on to serve two five-year terms until April 2018. More than 10 years after stepping down from power, Fidel Castro died in November 2016 at 90 years of age.

Raúl Castro's government (2006-2018) stands out for two significant policy developments. First, the government implemented a series of gradual market-oriented economic policy changes, including authorization for limited private-sector activity, the legalization of private property rights, and an opening to further foreign investment. Critics, however, maintain that the government did not go far enough toward enacting deeper reforms needed to stimulate the Cuban economy and foster sustainable economic growth. The second notable policy development was

the rapprochement in bilateral relations with the United States during the Obama Administration, which led to the reestablishment of diplomatic relations and government-to-government engagement and to cooperation on a wide range of issues.

Political Conditions

Cuba remains a one-party authoritarian state with a government that has sharply restricted basic human rights since the early years of the 1959 revolution.⁵ The government does not have direct elections for president; instead, pursuant to Cuba's Constitution, the national legislature—the National Assembly of People's Power—elects the president from among its representatives for a five-year term. Although National Assembly representatives are elected by direct vote, only one candidate is offered for each seat and candidates are chosen by candidacy commissions controlled by the PCC, the only recognized party.

Miguel Díaz-Canel succeeded Raúl Castro as president in April 2018 and as head of the PCC at its eighth party congress in April 2021. The departure of Castro and other older leaders from the PCC's Politburo, the party's highest decisionmaking body, reflects a generational change in Cuban leadership that began during Raúl Castro's rule. Even with his retirement as head of government and head of the PCC, Raúl Castro has remained an important figure and continues to advise President Díaz-Canel. When countrywide protests broke out in July 2021, Raúl Castro attended an emergency meeting of the Politburo and subsequently participated in a mass rally held to show support for the government.⁶

Cuba adopted a new constitution in 2019. The constitution introduced some reforms, including a limitation on the president's age (60 years, beginning first term) and tenure (two five-year terms), the addition of a presidentially appointed prime minister, and some market-oriented economic reforms, such as the right to private property and the promotion of foreign investment. Nevertheless, the new constitution—the nation's second under PCC rule—maintained the state's dominance over the economy and the PCC's predominant political role. In October 2019, the National Assembly reelected Díaz-Canel as president, pursuant to the new constitution. In December 2019, Díaz-Canel appointed then-Tourism Minister Manuel Marrero Cruz as Cuba's prime minister, essentially serving as the president's top administrator in implementing government policy.

Cuba at a Glance

Population: 11.1 million (2021, ONEI)

Area: 42,426 square miles (ONEI), slightly smaller than Pennsylvania

Real GDP Growth: -0.2% (2019); -10.9% (2020); 1.3% (2021 est.); 3.2% (2022 projected) (EIU)

Key Trading Partners: Exports (2020): Canada, 27.0%; China, 21.8%; Netherlands, 11.5%; Spain, 8.4%; Venezuela, 7.3%; Imports (2020): Venezuela, 14.7%; China, 13.3%; Spain, 11.7% (ONEI)

Life Expectancy: 79 years (2020, WB)

Literacy (adult): 99.8% (2018, UNDP)

Legislature: National Assembly of People's Power, currently 605 members (five-year term, elected in March 2018; next due in 2023).

Sources: National Office of Statistics and Information (ONEI), Republic of Cuba; U.N. Development Programme (UNDP); Economist Intelligence Unit (EIU); and World Bank (WB).

⁵ See Economist Intelligence Unit (EIU), *Democracy Index 2021*, February 2022, which classifies the Cuban government as *authoritarian* based on some 60 indicators; and Freedom House, *Freedom in the World 2022*, March 2021, which classifies Cuba as *not free* based on the government's poor records on political rights and civil liberties, at <https://freedomhouse.org/country/cuba/freedom-world/2022>.

⁶ Mauricio Vicent, "Raúl Castro's Last Mission: Ensuring Cuban Socialism Outlives Its Founders," *El País*, May 9, 2022.

After more than four years in office, President Díaz-Canel's most notable challenges have included the health and economic impacts of the Coronavirus Disease 2019 (COVID-19) pandemic, a shift in U.S. policy away from bilateral engagement toward increased economic sanctions, and increased social unrest emanating from poor economic conditions and repression against those advocating for freedom of expression. Amid these challenges, the Díaz-Canel government has continued to implement some market-oriented economic reforms, including long-awaited currency reform, and developed its own COVID-19 vaccines to combat the pandemic (see textbox on COVID-19 in Cuba below). The government also cracked down severely on artists and civil society activists pressing for freedom of expression and responded harshly to countrywide protests that erupted in July 2021, with hundreds of protesters arrested and prosecuted. Although Díaz-Canel has received criticism internationally for his government's increased use of repressive policies, Cuba's one-party rule does not appear to be in jeopardy, in large part due to the state's domestic security apparatus and control of virtually all media. Nevertheless, additional public protests are possible given the country's poor economic conditions, marked by food and medicine shortages and by electricity outages that have sparked smaller protests around the country.⁷ In August 2022, a massive fire triggered by lightning at Cuba's main oil storage facility increased the frequency of blackouts and resulted in long lines for gasoline.

Human Rights

The Cuban government has sharply restricted freedom of expression and other basic rights since the early years of the Cuban revolution. Over the years, it has harassed members of human rights and other civil society organizations. These organizations currently include the Ladies in White (*Las Damas de Blanco*), formed in 2003 by the female relatives of the "group of 75" dissidents arrested that year; the Patriotic Union of Cuba (*Unión Patriótica de Cuba*, or UNPACU), established in 2011 with the goal of working peacefully for civil liberties and human rights; and the San Isidro Movement (*Movimiento San Isidro*, or MSI), formed in 2018 by independent artists, musicians, writers, and scholars in response to the government's efforts through Decree-law 349 to restrict artistic expression not authorized by the state.⁸ The Cuban government also regularly harasses and restricts the activities of independent journalists critical of the government through arbitrary detentions, threats, and censorship. According to Reporters Without Borders' 2022 *World Press Freedom Index*, Cuba ranked near the bottom, 173rd out of 180 countries worldwide.⁹

Amid Cuba's repressive media environment, various independent Cuban blogs and media outlets have been established over the past 15 years. These outlets have benefited from the government's expansion of internet connectivity since 2015. The increase in social media use in Cuba (through foreign platforms such as Facebook, Twitter, and WhatsApp) has opened up a new avenue for freedom of expression. In response, the government has cracked down on those using social media to express critical dissent. The government has interrogated and fined journalists and government critics using social media, citing Decree-law 370, in force since July 2019, which

⁷ Aleiny Sánchez Martínez, "Más Apagones, Más Protestas en Cuba," *El Toque*, August 3, 2022.

⁸ "Decree 349: What Does It Say and What Does It Imply?" *Diario de Cuba*, December 10, 2018; "Cuba: Harassment of San Isidro Movement Exemplifies Ongoing Assault on Freedom of Expression," Amnesty International, November 20, 2020.

⁹ Reports Without Borders, "Cuba," in 2022 *World Press Freedom Index*, May 3, 2022, at <https://rsf.org/en/country/cuba>.

prohibits the dissemination of information “contrary to the social interest, morals, good manners, and integrity of people.”¹⁰

Increased Repression. Since late 2020, the human rights situation in Cuba has deteriorated considerably. As described below, the government cracked down on artists and others advocating for freedom of expression beginning in November 2020, harshly responded to countrywide protests that erupted in July 2021, and suppressed an opposition civic march planned for November 2021.

The November 2020 crackdown occurred after Cuban rapper and MSI member Denis Solís González was arrested on November 9, 2020. He was charged with “contempt for public authority” and sentenced to eight months in prison. In response, MSI members conducted a peaceful protest, which authorities disrupted.¹¹ Several MSI members subsequently began a hunger strike at the home of MSI leader Luis Manuel Otero Alcántara. Cuban authorities broke into the home on November 26, alleging violations of COVID-19 protocols, and detained over a dozen people. As word spread by social media, including videos of the government’s repression, several hundred Cubans—many young artists—gathered in protest at the Ministry of Culture overnight on November 27. Several observers dubbed the protest an awakening of civil society energized by social media.¹² The November protest also spurred the creation of 27N, a collective of artists and journalists supportive of MSI. Motivated by the repression of the MSI, in February 2021, a group of well-known Cuban hip-hop artists released a song and music video, *Patria y Vida*, critical of the government. The song became an instant hit and energized Cuban youth to such an extent that the government reacted with a campaign attempting to discredit it.¹³

On July 11, 2021, widespread and largely peaceful anti-government demonstrations broke out in Havana and throughout the country, with thousands of Cubans protesting shortages of food and medicine, daily blackouts, slow progress on COVID-19 vaccinations, and long-standing repression of freedom of expression and other basic rights. The protests were the largest since 1994, when Cuba was in the midst of an economic crisis following the loss of financial support from the collapsed Soviet Union. As with the MSI protest in November 2020, social media proved instrumental in bringing out Cubans to demonstrate.

The Cuban government responded to the July 2021 protests with harsh measures, including widespread arrests and detentions of more than 1,000 protesters, civil society activists, journalists, and bystanders. In a televised address, President Díaz-Canel denounced U.S. sanctions for causing shortages of food, medicines, raw materials, and fuel. He acknowledged that some Cubans who were protesting were experiencing shortages but asserted that a core group of manipulators planned the demonstrations. Díaz-Canel called “for all revolutionaries in our country, all communists, to take to the streets.”¹⁴ Human Rights Watch issued a report in October

¹⁰ Human Rights Watch, *World Report 2022*, January 2022.

¹¹ Solís was released on July 11, 2021. See “Sale de Prisión el Rapero Contestatario Denis Solís,” *14ymedio*, July 12, 2021.

¹² *Economist*, “The Movimiento San Isidro Challenges Cuba’s Regime,” December 5, 2020; and Ed Augustin, Natalie Kitroeff, and Frances Robles, “‘An Awakening’: Cubans’ Access to the Internet Fosters Dissent,” *New York Times*, December 10, 2020.

¹³ Osmel Ramírez Álvarez, “*Patria y Vida* Has Touched Cuban Youth in Particular,” *Havana Times*, March 27, 2021; and Nora Gámez Torres, “A Song Asks Cubans to Drop Castro’s Chant ‘Homeland or Death.’ The Government Is on Edge,” *Miami Herald*, February 23, 2021.

¹⁴ Gladys Leydis Ramos López, “We Defend the Revolution, Above All Else,” *Granma*, July 12, 2021.

2021 documenting “human rights abuses, including arbitrary detentions, ill-treatment in detention, and abusive criminal proceedings” against 130 of the July 2021 protesters.¹⁵

In November 2021, the Cuban government denied permission and disrupted plans for a new civic group, Archipiélago (organized through a Facebook forum), to conduct a countrywide “civic march for change” on November 15. The government used police, state security, and civilian pro-government mobs to thwart the planned protests. Cuban officials also threatened opposition leaders with prosecution, and President Díaz-Canel accused the United States of playing a role in trying to foment protest.¹⁶

Hundreds of the July 11, 2021, protesters have been tried and convicted, including more than 25 minors. As of the end of August 2022, the human rights group Cuban Prisoners Defenders reported that Cuba had 1,016 political prisoners (up from 152 on July 1, 2021). Of these prisoners, 743 were imprisoned and considered prisoners of conscience, 242 were under some form of conditional release, and 31 were imprisoned for other politically motivated acts.¹⁷ Those imprisoned include MSI leader Otero Alcántara (sentenced to five years), Maykel Castillo Pérez (also known as Maykel Osorbo, a musician and hip-hop artist who participated in the *Patria y Vida* video, sentenced to nine years), and UNPACU leader José Daniel Ferrer (home detention revoked in August 2021, ordered to serve remaining four years in prison).

Human Rights Reporting on Cuba

Below is a selection of organizations and publications that regularly report on human rights condition in Cuba.

Amnesty International (AI), Cuba, <https://www.amnesty.org/en/location/americas/central-america-and-the-caribbean/cuba/>.

Cuban Prisoners Defenders, <https://www.prisonersdefenders.org>.

Human Rights Watch (HRW), <https://www.hrw.org/americas/cuba>.

Inter-American Commission on Human Rights, Annual Report 2021, May 26, 2022, Chapter IV has a section on Cuba, at <http://www.oas.org/en/iachr/docs/annual/2021/Chapters/IA2021cap4B.Cuba-en.pdf>.

Inter-American Commission on Human Rights, Special Rapporteur for Freedom of Expression, Annual Report 2021, Trends on the right to freedom of expression in the Western Hemisphere, May 26, 2022, Cuba section, pp. 130-139, at <https://www.oas.org/en/iachr/expression/reports/IA2021ENG.pdf>.

U.S. Department of State, Country Report on Human Rights Practices for 2021, April 12, 2022, at <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/cuba/>.

U.S. Department of State, 2022 Trafficking in Persons Report, July 2022, Cuba section, pp. 193-195, at https://www.state.gov/wp-content/uploads/2022/08/22-00757-TIP-REPORT_072822-inaccessible.pdf

Selected Cuban Independent Media: **14ymedio.com**, independent digital newspaper, based in Havana, at <http://www.14ymedio.com/>; **El Toque**, an independent multimedia platform focused on diverse topics, at <https://eltoque.com/>; **Periodismo del Barrio**, focusing especially on environmental issues, at <https://www.periodismodebarrio.org/>; and **TremendaNota**, focusing on the LGBT+ community, at <https://www.tremendanota.com/>.

¹⁵ Human Rights Watch, “Cuba: Peaceful Protesters Systematically Detained, Abused,” October 19, 2021.

¹⁶ Frances Robles, “Government Forces Disrupt Planned Protests in Cuba,” *New York Times*, November 16, 2021; Mary Beth Sheridan and Alejandra Ibarra Chaoul, “Cuban Security Forces Throttle Planned Day of Nationwide Demonstrations,” *Washington Post*, November 16, 2021; Marc Frank and Nelson Acosta, “With Cuban Dissidents Wary or in Jail, Call for Fresh Protests Falls Flat,” *Reuters News*, November 15, 2021; and Nora Gámez Torres, “Government’s Crackdown Intensifies in Cuba Weeks Ahead of a Planned Opposition March,” *Miami Herald*, October 26, 2021.

¹⁷ Cuban Prisoners Defenders, “Informe Mensual de Prisioneros Políticos” y “Lista de Presos Políticos,” September 8, 2022.

Economic Conditions

Although the Cuban government has permitted an expansion of the private sector over the past decade, the state still controls most means of production and employs a majority of the workforce. Key sectors of the economy that generate foreign exchange include the export of professional services (largely medical personnel); tourism, which has grown significantly since the mid-1990s; nickel mining, with the Canadian mining company Sherritt International involved in a joint investment project; and biotechnology and pharmaceuticals, which supply the domestic health care system and has fostered a significant export industry.

The Cuban economy has been hard-hit by the economic shutdown associated with the COVID-19 pandemic (see text box), reduced support from Venezuela due to that country's economic crisis over the past several years, and U.S. economic sanctions. The Cuban government reports the economy contracted by 10.9% in 2020, grew by 1.3% in 2021, and is projected to expand by 4% in 2022.¹⁸ The Economist Intelligence Unit (EIU) forecasts 3.2% growth in 2022 and projects 4.6% growth in 2023.¹⁹ This forecast could change, given the impact of Russia's invasion of Ukraine on the global economy, including increases in food and fuel prices. The August 2022 fire that severely damaged Cuba's main oil storage facility also may affect this forecast.

Cash remittances from relatives living abroad, especially in the United States, remain an important source of hard currency, amounting to \$3.7 billion in 2019.²⁰ In 2020 and 2021, the amount of remittances sent to Cuba declined significantly due to the disruption of flights during the pandemic and increased U.S. sanctions, which caused Western Union to terminate its services to Cuba in November 2020. A Canadian-based remittance-forwarding company estimates that cash remittances to Cuba fell to \$3 billion in 2020 and \$1.9 billion in 2021.²¹

COVID-19 in Cuba

Cuba's public health response to the COVID-19 pandemic initially kept cases and deaths low, but both increased in late 2020 and surged until August 2021. The country experienced another surge in cases in January 2022 due to the Omicron variant, but deaths remained low, partly because of high vaccination rates. As of September 2022, Cuba reported over 8,500 deaths since the pandemic began, with a mortality rate of 75 per 100,000 (lower than many countries in the Americas) and had fully vaccinated 88% of its population, one of the highest vaccination rates worldwide.

Cuba has produced its own COVID-19 vaccines—Abdala, Soberana 2, and Soberana Plus (to be used in combination with Soberana 2)—which it has used (along with the Sinopharm vaccine from China) to vaccinate its population. Cuba has two other vaccines in clinical trials. Although the Cuban vaccines have not yet received World Health Organization authorization, several countries (e.g., Iran, Mexico, Nicaragua, Venezuela, and Vietnam) have authorized their emergency use.

Sources: Johns Hopkins University School of Medicine, Coronavirus Resource Center, "Cuba," September 19, 2022, at <https://coronavirus.jhu.edu/region/cuba>; Sara Reardon, "Cuba's Bet on Home-Grown COVID Vaccines Is Paying Off," *Nature*, November 22, 2021; EFE News Service, "Cuba to Send to WHO Information on Abdala Anti-COVID Vaccine in March," February 15, 2022; and Nelson Acosta, "Cuba Lifts Mask Mandate as Vaccination Rate Soars and Deaths Plummet," *Reuters News*, May 31, 2022.

¹⁸ Agencia EFE, "Cuba Creció un 1,3% en 2021, Según Cifras Oficiales," July 21, 2022; Caribbean Council, "Gil Says Economic Recovery Gradual, Inflation Must Be Better Addressed," *Cuba Briefing*, July 25, 2022.

¹⁹ EIU, *Cuba Country Report*, 3rd quarter 2022, p. 6.

²⁰ Havana Consulting Group and Tech, "COVID-19 puede hacer declinar las remesas a Cuba entre un 30 y 40% en 2020," March 20, 2020.

²¹ RevoluGROUP Canada Inc., "RevoluSEND Remittances Adds Cuba and Morocco Topping 116 Countries," news release, February 18, 2022.

Cuba's tourism sector has been especially affected by the pandemic. Due to pandemic-related travel restrictions, the number of international visitors to Cuba fell sharply, from almost 4.3 million in 2019 to almost 1.1 million in 2020 and fewer than 400,000 in 2021.²² Increased U.S. restrictions on travel to Cuba also contributed to a reduction of visitors (see "U.S. Restrictions on Travel and Remittances," below). These restrictions included changes eliminating people-to-people educational travel, prohibiting cruise ships and private and corporate aircraft from going to Cuba, suspending commercial flights to cities other than Havana, and prohibiting U.S. travelers from staying at over 400 hotels and private residences identified by the State Department as owned or controlled by the Cuban government.

Until 2021, the Díaz-Canel government largely continued a gradualist, cautious approach to economic reform, mainly due to concern about the potential effects on political stability. In December 2020, however, President Díaz-Canel announced in a televised address the elimination of Cuba's dual currency system; on January 1, 2021, the Cuban peso was fixed to a single exchange rate of 24 pesos per U.S. dollar, and the Cuban convertible peso was phased out over several months. Over the medium- to long-term, the currency unification is expected to eliminate economic distortions. To date, however, the move has inflicted significant costs, including high inflation, with estimates ranging from nearly 200%-500% by the end of 2021; inflation has spurred the growth of an informal market for dollars and other convertible currencies. The EIU forecasts that inflation will decline to 59% at the end of 2022 and almost 35% at the end of 2023, but that projection may be jeopardized if the government is unable to resolve shortages.²³

In early August 2022, the government announced the state banking system would begin purchasing (but not selling) dollars and other convertible currencies at nearly five times the current rate with the goal of undercutting the informal market and acquiring foreign currency. The new rate for buying dollars was set at 120 pesos to the dollar (but reportedly would float), compared with the official rate of 24 pesos and the informal market rate of 115 pesos.²⁴ On August 22, 2022, the Cuban government announced it would begin selling dollars and other foreign currency, with some restrictions, with the goal of undercutting the informal market, which it blames for high inflation.²⁵

Among other reforms, the Cuban government partially liberalized the labor market in February 2021 to allow private-sector participation in more than 2,000 professions. In August 2021, the government legalized the establishment of small- and medium-sized businesses with fewer than 100 employees; by May 2022, more than 3,000 such businesses had been approved.²⁶ In another incremental measure announced in mid-August 2022, the Cuban government said it plans to

²² República de Cuba, Oficina Nacional de Estadísticas e Información (ONEI), "Arribo de viajeros. Visitantes internacionales. Al cierre de diciembre 2021," February 4, 2022.

²³ EIU, *Cuba Country Report*, 3rd quarter 2022, pp. 8 and 9; Marc Frank, "Cuban Peso in Free Fall Against the Dollar," Reuters News, January 26, 2022; Pavel Vidal, "Economic Trend Report, Fourth Quarter, 2021," *Cuba Standard, Economic Reports*, March 2022.

²⁴ Marc Frank, "Cuba More Than Quadruples Dollar/Peso Exchange Rate," Reuters News, August 3, 2022. The informal market rate has continued to climb and, as of September 20, 2022, was 180 pesos to the dollar. For the most recent rate, see *El Toque*, "Tasas de Cambio de Moneda en Cuba Hoy," at <https://eltoque.com/tasas-de-cambio-de-moneda-en-cuba-hoy>.

²⁵ Marc Frank, "Cuba to Exchange Some Foreign Currency for Pesos After Two-Year Hiatus," Reuters News, August 23, 2022.

²⁶ BBC News, "Cuba Allows Small- and Medium-Sized Private Businesses," August 7, 2021; Marc Frank and Nelson Acosta, "Cuba's Economic Reforms Allow Small Entrepreneurs to Dream Big," Reuters News, December 7, 2021; EIU, *Cuba Country Report*, 2nd quarter 2022, p. 6; and Pavel Vidal, "Economic Trend Report, First Quarter, 2022," *Cuba Standard, Economic Reports*, June 2022.

allow certain foreign investment in local wholesale and retail trade, although some economists doubt whether this limited step will relieve shortages.²⁷

U.S. Policy Toward Cuba

Historical Background²⁸

In the early 1960s, U.S.-Cuba relations deteriorated sharply when Fidel Castro began to build a repressive communist dictatorship and moved his country toward close relations with the Soviet Union. The often tense and hostile nature of the U.S.-Cuba relationship is illustrated by such events and actions as U.S. covert operations to overthrow the Castro government, culminating in the ill-fated April 1961 Bay of Pigs invasion; the October 1962 missile crisis, in which the United States confronted the Soviet Union over its attempt to place offensive nuclear missiles in Cuba; Cuban support for guerrilla insurgencies and military support for revolutionary governments in Africa and the Western Hemisphere; the 1980 exodus of around 125,000 Cubans to the United States in the so-called Mariel boatlift; the 1994 exodus of more than 30,000 Cubans who were interdicted and housed at U.S. facilities in Guantanamo Bay, Cuba, and in Panama; and the 1996 shootdown by Cuban fighter jets of two U.S. civilian planes operated by the Cuban-American group Brothers to the Rescue, which resulted in the deaths of four U.S. crew members.

Since the early 1960s, U.S. policy toward Cuba—long a significant congressional concern—has consisted largely of seeking to isolate the island nation through comprehensive economic sanctions, including an embargo on trade and financial transactions. Especially since the end of the Cold War, Congress has actively shaped U.S. policy toward Cuba. Much of the congressional debate has focused on economic sanctions, first with the enactment of the Cuban Democracy Act of 1992 (CDA; P.L. 102-484, Title XVII) and then with the Cuban Liberty and Democratic Solidarity Act of 1996 (LIBERTAD Act; P.L. 104-114). Both measures tightened U.S. economic sanctions on Cuba that were first imposed in the early 1960s; however, both measures also provided road maps for the normalization of relations, dependent on significant political and economic changes in Cuba. Congress partially modified its sanctions-based policy toward Cuba when it enacted the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA; P.L. 106-387, Title IX), allowing for U.S. agricultural exports to Cuba, albeit with severely restrictive financing options. Congress also has funded U.S. government-sponsored broadcasting to Cuba since the 1980s and Cuba democracy and human rights programs since the 1990s.

Policy Shifts Under the Obama and Trump Administrations²⁹

President Obama announced a major shift in U.S. policy toward Cuba in December 2014 that moved away from a sanctions-based policy aimed at isolating Cuba toward a policy of engagement and a normalization of relations. At the time, President Obama said his

²⁷ Marc Frank, “Cuba Cracks Open Door to Foreign Investment in Domestic Trade, Reuters News, August 16, 2022; and Nora Gámez Torres, “As Food Crisis Deepens, Cuba to Allow Some Foreign Investment in Wholesaling and Retail,” *Miami Herald*, August 16, 2022.

²⁸ For additional background, see CRS Report RL30386, *Cuba-U.S. Relations: Chronology of Key Events 1959-1999*. For an extensive review of the history of bilateral relations, see Ada Ferrer, *Cuba: An American History* (New York: Scribner, 2021).

²⁹ For more on Obama Administration policy, see CRS Report R43926, *Cuba: Issues and Actions in the 114th Congress*, and for more on Trump Administration policy, see CRS Report R45657, *Cuba: U.S. Policy in the 116th Congress and Through the Trump Administration*.

Administration would “end an outdated approach that, for decades, has failed to advance our interests.” He maintained that the United States would continue to raise concerns about democracy and human rights in Cuba but stated, “we can do more to support the Cuban people and promote our values through engagement.”³⁰

The policy shift led in July 2015 to the restoration of diplomatic relations, which had been severed in January 1961 by the Eisenhower Administration. It also led to the May 2015 rescission of the Cuban government’s designation as a state sponsor of international terrorism, a designation that dated to 1982, and to the easing of some restrictions on travel and commerce with Cuba in 2015 and 2016. The restoration of relations resulted in increased government-to-government engagement, with over 20 bilateral agreements on issues such as counternarcotics cooperation, oil spill preparedness and response, civil aviation, health cooperation, maritime issues, and environmental cooperation. It also led to a broad economic dialogue and numerous dialogues on regulatory issues, law enforcement, counterterrorism issues, property claims, and human rights, among other topics.

President Trump unveiled his Administration’s Cuba policy in June 2017, introducing new sanctions and rolling back the Obama Administration’s efforts to normalize relations. President Trump signed a national security presidential memorandum (NSPM) replacing President Obama’s October 2016 presidential policy directive laying out objectives for the normalization process.³¹ New sanctions included a prohibition on certain financial transactions with companies controlled by the Cuban military, intelligence, or security services. In September 2017, the State Department reduced the staff of the U.S. Embassy in Havana by about two-thirds in response to unexplained health

Anomalous Health Incidents

Between late 2016 and May 2018, 26 U.S. Embassy Havana community members suffered a series of unexplained injuries, including hearing loss and cognitive issues. In December 2020, the National Academies of Sciences, Engineering, and Medicine released a report concluding the most plausible mechanism for the source of the health symptoms was directed pulsed radio frequency energy. U.S. officials maintain that investigations into the cause or source of these anomalous health incidents have not reached a conclusion. A number of U.S. government and military officials worldwide have reported these symptoms since 2016.

In January 2022, press reports maintained that an interim Central Intelligence Agency (CIA) report concluded that a majority of cases worldwide are unlikely to have been caused by a foreign adversary, although it noted that some two dozen cases remain unexplained. In early February 2022, a panel of experts convened by the Director of National Intelligence and the CIA Deputy Director reported that pulsed radio frequency energy could plausibly explain the health symptoms but maintained that information gaps remain.

Congress enacted legislation (P.L. 117-46) in September 2021 authorizing payment to CIA and State Department personnel who experience certain brain injuries. The National Defense Authorization Act for FY2022 (P.L. 117-81), approved in December 2021, has provisions to address health care and treatment, national security challenges, and U.S. government coordination of the response to the incidents.

Sources: Office of the Director of National Intelligence, “Complementary Efforts on Anomalous Health Incidents,” February 2, 2022; Julian E. Barnes, “Most ‘Havana Syndrome’ Cases Unlikely Caused by Foreign Power, CIA Says,” *New York Times*, January 20, 2022; David A. Relman and Julie A. Pavlin, eds., *An Assessment of Illness in U.S. Government Employees and Their Families at Overseas Embassies*, National Academies of Sciences, Engineering, and Medicine, 2020.

³⁰ White House, “Statement by the President on Cuba Policy Changes,” December 17, 2014, at <https://obamawhitehouse.archives.gov/the-press-office/2014/12/17/statement-president-cuba-policy-changes>.

³¹ U.S. Department of State, “Strengthening the Policy of the United States Toward Cuba,” 82 *Federal Register* 48875-48878, October 20, 2017 (consists of the text of National Security Presidential Memorandum, NSPM-5, issued by the President on June 16, 2017), at <https://www.federalregister.gov/documents/2017/10/20/2017-22928/strengthening-the-policy-of-the-united-states-toward-cuba>; White House, “Presidential Policy Directive—United States-Cuba Normalization,” October 14, 2016, at <https://obamawhitehouse.archives.gov/the-press-office/2016/10/14/presidential-policy-directive-united-states-cuba-normalization>.

injuries of members of the U.S. diplomatic community in Havana (see text box). The embassy staff reduction led to the suspension of most visa processing at the embassy and made it difficult to carry out other embassy functions, including on-the-ground reporting on significant economic and political developments in Cuba and outreach to civil society and human rights activists.

Beginning in 2019, the Trump Administration significantly expanded U.S. sanctions on Cuba. It reimposed some restrictions eased under the Obama Administration and imposed a series of new sanctions designed to pressure the Cuban government on its human rights record and over its support of the Nicolás Maduro government in Venezuela. The Trump Administration also allowed lawsuits against those trafficking in property confiscated by the Cuban government; tightened restrictions on U.S. travel and remittances to Cuba; and, in January 2021, again designated the Cuban government as state sponsor of international terrorism.

Biden Administration Policy

In its initial months in office, the Biden Administration announced it was conducting a review of policy toward Cuba, with human rights a core pillar, and would review policy decisions made by the prior Administration, including the decision to designate Cuba as a state sponsor of terrorism.³²

In the aftermath of the Cuban government's harsh response to the July 2021 protests, the Biden Administration expressed solidarity with the Cuban protesters and criticized the Cuban government for its repression. President Biden issued a statement asserting, "We stand with the Cuban people and their clarion call for freedom and relief from the tragic grip of the pandemic and from the decades of repression and economic suffering to which they have been subjected by Cuba's authoritarian regime."³³ Secretary of State Antony Blinken declared, "We join partners across the hemisphere and around the world in urging the Cuban regime to respect the rights of the Cuban people to determine their own future, something they have been denied for far too long."³⁴

The Administration imposed targeted sanctions on Cuban officials involved in the repression. In July and August 2021, the Treasury Department imposed financial sanctions on three Cuban security entities and eight officials. Between November 2021 and July 2022, the State Department announced four rounds of visa restrictions against 50 individuals involved in repressing protesters. (For more details, see "Key U.S. Sanctions," below.)

In May 2022, the Administration announced several Cuba policy changes aimed at increasing support for the Cuban people. The changes, which emanated from a policy review begun in 2021, fall into four broad areas—facilitating family reunification, expanding authorized travel, easing restrictions on remittances, and supporting Cuba's private sector. According to a State Department spokesperson, the changes are to provide Cubans with "additional tools to pursue life free from Cuban government oppression and to seek greater economic opportunities."³⁵

The Biden Administration has begun implementing the policy changes through various steps and regulatory changes undertaken by relevant U.S. departments and agencies. The Administration

³² U.S. Department of State, "Press Briefing by Press Secretary Jen Psaki and Deputy Director of the National Economic Council Bharat Ramamurti," March 9, 2021.

³³ White House, "Statement by President Joseph R. Biden, Jr. on Protests in Cuba," July 12, 2021.

³⁴ U.S. Department of State, "Secretary Antony J. Blinken Remarks to the Press on Release of the 2021 Congressional Report Pursuant to the Elie Wiesel Genocide and Atrocities Prevention Act," July 12, 2021.

³⁵ U.S. Department of State, "Biden Administration Expands Support to the Cuban People," press statement, May 16, 2022.

began increasing immigrant visa processing at the U.S. Embassy in Havana in May 2022 and said it would reinstate the Cuban Family Reunification Parole Program, which was suspended in 2017 amid the drawdown of staff at the U.S. Embassy in Havana. In September 2022, the Administration announced it would resume full immigration visa processing at the embassy in early 2023, the first time since 2017. Driven by Cuba's difficult economic conditions and political repression, among other factors, irregular Cuban migration to the United States has surged over the past year (see "Migration Issues," below).

With regard to travel and remittances, the Biden Administration partially eased restrictions, although it kept some Trump Administration restrictions in place. Among the changes, the Biden Administration reauthorized scheduled and charter flights to locations beyond Havana, reinstated group people-to-people educational travel, eliminated dollar and frequency limits for family remittances, and restored the category of donative remittances (sometimes referred to as non-family remittances) to any Cuban national (see "U.S. Restrictions on Travel and Remittances"). The Administration also announced it would increase support for independent Cuban entrepreneurs by authorizing greater access to U.S. internet services, applications, and e-commerce platforms and by expanding access to microfinance and training.³⁶

At the same time, the Administration has continued to speak out about human rights abuses in Cuba and officials maintain that human rights issues will remain at the center of U.S. policy toward Cuba.³⁷ On the first anniversary of the July 11, 2021, protests, Secretary of State Blinken issued a press statement asserting, "the United States recognizes the determination and courage of the Cuban people as they continue to fight for respect for human rights" and that "it is unacceptable that today, one year after these demonstrations, over 700 protesters remain behind bars."³⁸

Key U.S. Sanctions

Since the early 1960s, when the United States imposed a trade embargo on Cuba, the centerpiece of U.S. policy toward Cuba has been economic sanctions aimed at isolating the Cuban government and influencing its behavior. President Kennedy proclaimed an embargo on trade between the United States and Cuba in February 1962,³⁹ citing Section 620(a) of the Foreign Assistance Act of 1961 (FAA; P.L. 87-195), which authorizes the President "to establish and maintain a total embargo upon all trade between the United States and Cuba."⁴⁰ At the same time, the Treasury Department issued the Cuban Import Regulations to deny the importation into the United States of all goods imported from or through Cuba.⁴¹ The authority for the embargo was expanded in March 1962 to include the Trading with the Enemy Act (TWEA, P.L. 65-91, as amended).⁴² In July 1963, the Treasury Department revoked the Cuban Import Regulations and

³⁶ U.S. Department of State, "Biden Administration Measures to Support the Cuban People," fact sheet, May 16, 2022.

³⁷ White House, "Background Press Call by Senior Administration Officials on New Cuba Policy," press briefing via teleconference, May 16, 2022.

³⁸ U.S. Department of State, Secretary of State Antony J. Blinken, "The First Anniversary of July 11, 2021, Protests," press statement, July 11, 2022.

³⁹ Presidential Documents, "Proclamation 3447, Embargo on All Trade with Cuba," 27 *Federal Register* 1085, February 7, 1962.

⁴⁰ In October 1960, under the Eisenhower Administration, exports to Cuba were strictly controlled under the authority of the Export Control Act of 1949 in response to the expropriation of U.S. properties. This action in effect amounted to an embargo on exports of all products with the exception of certain foods, medicines, and medical supplies.

⁴¹ U.S. Department of the Treasury, 27 *Federal Register* 1116, February 7, 1962.

⁴² U.S. Department of the Treasury, 27 *Federal Register* 2765-2766, March 24, 1962.

replaced them with the more comprehensive Cuban Assets Control Regulations (CACR)—31 C.F.R. Part 515—under the authority of TWEA and Section 620(a) of the FAA.⁴³

The CACR remain the main body of Cuba embargo regulations and have been amended repeatedly over the years to reflect changes in U.S. policy. The regulations, administered by the Treasury Department's Office of Foreign Assets Control, prohibit most financial transactions with Cuba, including transactions related to trade, travel, and remittances, and they block Cuban government assets in the United States. The CACR also require all exports to Cuba to be licensed or otherwise authorized by the Department of Commerce, Bureau of Industry and Security, under the terms of the Export Administration Regulations (EAR), at 15 C.F.R. Parts 730-744.⁴⁴ (For more details on certain sanctions, see sections on "U.S. Restrictions on Travel and Remittances" and "U.S. Exports and Sanctions," below.)

Congress strengthened sanctions on Cuba with enactment of the CDA, LIBERTAD Act, and TSRA. In addition to these acts, Congress enacted numerous other provisions of law over the years that imposed sanctions on Cuba, including restrictions on trade, foreign aid, and support from the international financial institutions.⁴⁵

- Among its provisions, the CDA prohibits U.S. foreign subsidiaries from engaging in trade with Cuba and prohibits entry into the United States for any seaborne vessel to load or unload freight if it has been involved in trade with Cuba within the previous 180 days unless licensed by the Treasury Department.⁴⁶
- The LIBERTAD Act, enacted in the aftermath of Cuba's shooting down two U.S. civilian planes in February 1996, combines various measures to increase pressure on Cuba and provides a plan to assist Cuba once it begins the transition to democracy. Most significantly, the act codifies the Cuban embargo as permanent law, including all restrictions imposed by the executive branch under the CACR. This provision is noteworthy because of its long-lasting effect on U.S. policy options toward Cuba. The provision prohibits the executive branch from lifting the economic embargo without congressional concurrence through legislation until certain democratic conditions set forth in the law are met, although the President retains broad authority to amend the regulations therein. Title III of the law holds any person or government that traffics in property confiscated by the Cuban government liable for monetary damages in U.S. federal court.⁴⁷ Title IV

⁴³ U.S. Department of the Treasury, "Control of Financial and Commercial Transactions Involving Cuba or Nationals Thereof," 28 *Federal Register* 6974-6985, July 9, 1963.

⁴⁴ 31 C.F.R. §515.533. In the Export Administration Regulations (EAR), see especially 15 C.F.R. §746.2 on Cuba. The EAR are authorized, in large part, by the Export Control Reform Act of 2018 (P.L. 115-232, Title XVII, Subtitle B) and the three retained sections of the otherwise repealed Export Administration Act of 1979 (P.L. 96-72).

⁴⁵ These include several other provisions restricting assistance to Cuba in the Foreign Assistance Act of 1961 (FAA; P.L. 87-195), as well as sanctions provisions in the Export-Import Bank Act of 1945, the International Development Association Act, the Inter-American Development Bank Act, the Bretton Woods Agreements Act, 1978, the Tariff Classification Act of 1962, the Trade Act of 1974, the Food Security Act of 1985, and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Division A, Title II, Section 211, P.L. 105-277). See CRS Report R43888, *Cuba Sanctions: Legislative Restrictions Limiting the Normalization of Relations*.

⁴⁶ Pursuant to an October 2016 regulatory change, the Obama Administration eased the 180-day rule by issuing a general license waiving the restriction if the items carried to Cuba would, if subject to the EAR, be designated as EAR 99, meaning the items are not on the Commerce Control List. According to the Commerce Department, EAR items generally consist of low-technology consumer goods. U.S. Department of the Treasury, "Cuban Assets Control Regulations," 81 *Federal Register* 71372-71378, October 17, 2016.

⁴⁷ Effective May 2, 2019, the Trump Administration allowed the right to file lawsuits against those trafficking in

denies admission to the United States to aliens involved in the trafficking of confiscated U.S. property in Cuba.

- TSRA authorizes U.S. commercial agricultural exports to Cuba (with prohibitions on U.S. assistance and private financing) and requires “payment of cash in advance” or third-country financing for the exports. The act also prohibits tourist travel to Cuba.

Under the Trump Administration, the United States introduced additional sanctions, discussed below, that have continued under the Biden Administration. These sanctions include restrictions on transactions with entities identified as controlled by the Cuban military, a prohibition on staying at accommodations in Cuba identified as controlled by the Cuban government or by certain prohibited government or PCC officials or their close relatives, and two terrorism-related designations. In addition, both the Trump and Biden Administrations imposed targeted sanctions on Cuban officials and entities, including financial sanctions and visa restrictions, for involvement in human rights abuses.

Cuba Restricted List. Pursuant to President Trump’s NSPM, the State Department in 2017 identified entities controlled by the Cuban military, intelligence, or security services or personnel and published a list of entities with which direct financial transactions would disproportionately benefit those services or personnel at the expense of the Cuban people or private enterprise in Cuba. The State Department has updated this “Cuba Restricted List” several times, most recently on January 8, 2021. The CACR, as amended by the Treasury Department, prohibits financial transactions with entities on the list, with certain exceptions, including transactions related to air or sea operations supporting permissible travel, cargo, or trade; the sale of agricultural and medical commodities; and direct telecommunications or internet access for the Cuban people.⁴⁸ The list currently includes 231 entities and sub-entities, including 2 ministries, 5 holding companies and 55 of their sub-entities (including the Mariel Special Development Zone), 111 hotels, 2 tourist agencies, 5 marinas, 10 stores in Old Havana, and 41 entities serving defense and security sectors.⁴⁹

Cuba Prohibited Accommodations List. In September 2020, the Treasury Department amended the CACR to prohibit most categories of authorized travelers to Cuba from lodging, paying for lodging, or making any reservation for or on behalf of a third party to lodge at any property in Cuba that the Secretary of State has identified as a property owned or controlled by the Cuban government, a prohibited Cuban government official, a prohibited member of the Communist Party, or a close relative of either.⁵⁰ The State Department subsequently issued a “Cuba Prohibited

confiscated property in Cuba pursuant to Title III. Lawsuits can be brought by any U.S. national, including those who were not U.S. nationals at the time of the confiscation. For background, see section on “Property Claims and Title III and IV of the LIBERTAD Act,” in CRS Report R45657, *Cuba: U.S. Policy in the 116th Congress and Through the Trump Administration*. Some 44 lawsuits have been filed, including 15 involving claimants certified by the Foreign Claims Settlement Commission (out of 5,913 claims) and 29 noncertified claims against U.S. and foreign companies. Several of the lawsuits have been dismissed. See U.S.-Cuba Trade and Economic Council, Inc. “LIBERTAD Act Filing Statistics,” accessed August 29, 2022, at <https://www.cubatrade.org/s/Libertad-Act-Filing-Statistics-bh8j.pdf>.

⁴⁸ U.S. Department of the Treasury, “Treasury, Commerce, and State Implement Changes to the Cuba Sanctions Rules,” fact sheet, November 8, 2017; and U.S. Department of the Treasury, “Cuban Assets Control Regulations,” 82 *Federal Register* 51998-52004, November 9, 2017.

⁴⁹ U.S. Department of State, “Updating the State Department’s List of Entities and Sub-entities Associated with Cuba (Cuba Restricted List),” 86 *Federal Register* 1561-1564, January 8, 2021. The list is also available on the State Department’s website at <https://www.state.gov/cuba-restricted-list/list-of-restricted-entities-and-subentities-associated-with-cuba-effective-january-8-2021/>.

⁵⁰ U.S. Department of the Treasury, “Cuban Assets Control Regulations,” 85 *Federal Register* 60068-60072,

Accommodations List” that included over 400 hotels as well as privately owned residences for rent (*casas particulares*).⁵¹

Terrorism Designations. Since 2020, pursuant to Section 40A of the Arms Export Control Act (P.L. 90-629, as amended), Cuba has been on the annual list of countries certified by the Secretary of State as *not cooperating fully* with U.S. anti-terrorism efforts, a status that prohibits U.S. exports of defense articles and services to the designated foreign government. In May 2020, then-Secretary of State Michael Pompeo added Cuba to the annual list for the first time since 2015. Secretary of State Antony Blinken has continued to include Cuba on the list, most recently in May 2022.⁵²

The Cuban government also is designated as a state sponsor of acts of international terrorism pursuant to provisions in several laws, with sanctions that restrict foreign assistance and non-emergency food aid, ban defense exports and sales, and impose certain controls over exports of dual-use items and other miscellaneous financial restrictions.⁵³ Under the Trump Administration, then-Secretary of State Pompeo designated the government of Cuba as a state sponsor of international terrorism, effective January 12, 2021. The State Department cited Cuba’s harboring from justice of 10 leaders of Colombia’s National Liberation Army (ELN; a U.S.-designated foreign terrorist organization), who had traveled to Cuba in 2017 to engage in peace talks with the Colombian government, and several U.S. fugitives since the 1970s (see “U.S. Fugitives from Justice” section, below).⁵⁴ In August 2022, new Colombian President Gustavo Petro said he was suspending extradition requests for ELN members in Colombia as part of an effort to restart peace talks, which collapsed in 2019.⁵⁵

Targeted Human Rights Sanctions. Since 2019, the United States has imposed targeted sanctions on Cuban officials and entities linked to or responsible for human rights abuses. These sanctions include visa restrictions and financial sanctions blocking assets and property, as well as a prohibition against U.S. persons dealing with the blocked individuals or entities.

In 2019 and 2020, under the Trump Administration, the State Department imposed visa restrictions on three high-ranking Cuban officials and their immediate family members for credible information of their involvement in gross violation of human rights, barring them from

September 24, 2020.

⁵¹ U.S. Department of State, “Cuba Prohibited Accommodations List Initial Publication,” September 28, 2020, at <https://www.state.gov/cuba-sanctions/cuba-prohibited-accommodations-list/cuba-prohibited-accommodations-list-initial-publication/>.

⁵² U.S. Department of State, “Determination and Certification of Countries Not Cooperating Fully with Anti-terrorism Efforts,” 85 *Federal Register* 33772, June 2, 2020; and U.S. Department of State, “Determination and Certification of Countries Not Cooperating Fully with Anti-terrorism Efforts,” 87 *Federal Register* 31051, May 20, 2022.

⁵³ The provision of laws is Section 620A of the FAA, Section 40 of the Arms Export Control Act (P.L. 90-629, as amended), and Section 1754(c) of the Exports Controls Act of 2018 (in P.L. 117-232, the John S. McCain National Defense Act for Fiscal Year 2019). See CRS Report R43835, *State Sponsors of Acts of International Terrorism—Legislative Parameters: In Brief*; and U.S. Department of State, “State Sponsors of Terrorism,” at <https://www.state.gov/state-sponsors-of-terrorism/>.

⁵⁴ U.S. Department of State, Secretary of State Michael R. Pompeo, “U.S. Announces Designation of Cuba as a State Sponsor of Terrorism,” January 11, 2021. Previously, the State Department designated Cuba as a state sponsor in 1982 because of the country’s alleged ties to international terrorism; this designation was rescinded under the Obama Administration in 2015. For background on Cuba’s initial designation, see CRS Report RL32251, *Cuba and the State Sponsors of Terrorism List*, August 22, 2006. For background on the rescission of Cuba’s state sponsor designation, see “State Sponsor of Terrorism Designation,” in CRS Report R43926, *Cuba: Issues and Actions in the 114th Congress*.

⁵⁵ Julia Symmes Cobb, “Colombia Suspends ELN Rebel Arrest Warrants, Extradition Orders to Restart Peace Talks,” Reuters News, August 20, 2022.

entry into the United States, pursuant to a long-standing and annually renewed provision in the Department of State, Foreign Operations, and Related Programs Appropriations Act (SFOPS; currently in Section 7031(c) of P.L. 117-103, Division K). The officials were Raúl Castro, then-Minister of the Interior Julio Cesar Gandarilla Bermejo (who died in 2020), and then-Cuban Defense Minister Leopoldo Cintra Frias (who was replaced in 2021).⁵⁶ In September 2020, the Treasury Department imposed, pursuant to the CACR, financial sanctions on Luis Alberto Rodríguez López-Calleja, Raúl Castro's former son-in-law, who headed a holding company of the Cuban military (López-Calleja died in July 2022).⁵⁷ In January 2021, Treasury designated for sanctions Cuba's Ministry of the Interior (MININT) and its minister, General Lazaro Alberto Álvarez Casas, pursuant to authorities to deter human rights abuses and public corruption enacted in the Global Magnitsky Human Rights Accountability Act (P.L. 114-328, Title XII, Subtitle F) and implemented by Executive Order 13818.⁵⁸

In the aftermath of Cuba's harsh repression of protests in July 2021, the Biden Administration has imposed targeted visa restrictions, pursuant to Presidential Proclamation 5377, on 50 Cuban officials and financial sanctions, pursuant to Executive Order 13818, on three Cuban security entities and eight officials involved in the repression. Although the Cuban officials whose visas were restricted are unnamed, according to the State Department, they include high-ranking officials of MININT, the Ministry of Revolutionary Armed Forces (MINFAR), and the PCC. They also include officials connected to unfair trials, unjust sentencing, and imprisonment of peaceful protesters and officials who work in the state communications and media sectors.⁵⁹ The three security entities sanctioned by the Treasury Department are MINFAR's *Tropas de Prevención*, MININT's *Brigada Especial Nacional* (Special National Brigade), and the *Policia Nacional Revolucionaria* (PNR). Cuban officials sanctioned by Treasury include Minister of Defense Álvaro López Miera and officials of MININT, MINFAR, and the PNR.⁶⁰

Debate on the Direction of U.S. Policy

Over the years, although U.S. policymakers have agreed on the overall objectives of U.S. policy toward Cuba—to help bring democracy and respect for human rights to the island—there have been different schools of thought about how to achieve those objectives. Some have advocated a policy of keeping maximum pressure on the Cuban government until it reforms while continuing U.S. efforts to support the Cuban people. Others have argued for an approach, sometimes referred to as *constructive engagement*, that would lift some U.S. sanctions that hurt the Cuban people and move toward engaging the Cuban government in dialogue in key areas of U.S. interest. Still

⁵⁶ U.S. Department of State, Secretary of State Michael R. Pompeo, "Public Designation of Raúl Castro, Due to Involvement in Gross Violations of Human Rights," press statement, September 26, 2019, "Public Designation of Julio Cesar Gandarilla Bermjeo Under Section 7031(c) of the FY2019 Department of State, Foreign Operations List," press statement, November 16, 2019; and "Public Designation of Leopoldo Cintra Frias Due to Involvement in Gross Violations of Human Rights," press statement, January 2, 2020.

⁵⁷ U.S. Department of the Treasury, "Notice of OFAC Sanctions Action," 85 *Federal Register*, October 5, 2020.

⁵⁸ U.S. Department of the Treasury, "Treasury Sanctions the Cuban Ministry of the Interior and Its Leader for Serious Human Rights Abuse," press release, January 15, 2021.

⁵⁹ U.S. Department of State, Secretary of State Antony J. Blinken, "Announcement of Visa Restrictions Against Cuban Officials," press statement, November 30, 2021; "Visa Restrictions Against Cuban Officials," press statement, January 6, 2022; "State Department Takes Steps to Impose Visa Restrictions Against Cuban Officials," press statement, June 16, 2022; and "Announcement of Visa Restrictions Against Cuban Officials," press statement, July 9, 2022.

⁶⁰ U.S. Department of State, "Cuba Sanctions," at <https://www.state.gov/cuba-sanctions/>.

others have called for a swift normalization of U.S.-Cuban relations by lifting U.S. economic sanctions.

The Obama Administration's December 2014 change of U.S. policy—moving from isolation toward engagement and the normalization of relations—highlighted divisions in Congress over Cuba policy. Some Members of Congress lauded the Administration's actions as being in the best interests of the United States and a better way to influence change in Cuba; other Members criticized the Administration for not obtaining concessions from Cuba to advance human rights. Some Members vowed to oppose the Administration's efforts toward normalization, whereas others introduced legislation to normalize relations with Cuba by lifting the embargo in its entirety or in part by easing some aspects of it. Several legislative provisions of House appropriations bills would have blocked some of the Administration's policy changes toward Cuba, and several provisions of Senate appropriations bills would have further eased sanctions on Cuba; ultimately, none of these provisions (or other legislative initiatives on either side of the policy divide) were enacted.⁶¹

The Trump Administration's approach of rolling back some Obama-era policy changes and introducing new sanctions on Cuba also highlighted divisions in Congress over Cuba policy. Some Members supported the President's action because of Cuba's lack of progress on human rights; others opposed it due to its negative effects on the Cuban people and U.S. business interests. Aside from congressional enactment of a provision in the 2018 farm bill (P.L. 115-334) authorizing funding for two U.S. agricultural export promotion programs in Cuba, Congress did not approve legislative initiatives to ease or further tighten U.S. sanctions. Congress did, however, reject the Administration's attempts to cut democracy funding for Cuba, instead appropriating \$20 million each fiscal year (the same amount appropriated annually since FY2014).⁶²

The Biden Administration's partial lifting of the Trump-era Cuba policy tightening restrictions on travel and remittances has elicited mixed reactions from Congress. Those Members advocating sustained pressure on Cuba have criticized the Administration's actions as providing support for the Cuban government, and those advocating engagement or support for the Cuban people have lauded the policy change as a step forward. Cuba's increased repression over the past year, including its harsh response to the July 2021 countrywide protests, appears to have eroded congressional support for measures easing economic sanctions on Cuba in the near term. Illustrative of this shift was the House's July 20, 2022, rejection of an amendment to a six-bill FY2023 appropriations measure (H.Amdt. 300 to H.R. 8294) that would have prohibited funding to enforce a sanction in U.S. law prohibiting private financing for U.S. agricultural exports to Cuba. Both houses also have approved human rights resolutions on Cuba, and, as in past Congresses, funding for democracy programs and U.S.-government sponsored broadcasting to Cuba has continued.

⁶¹ For background on legislative initiatives after the Obama Administration announced its change of policy toward Cuba, see CRS Report R43926, *Cuba: Issues and Actions in the 114th Congress*.

⁶² For background on legislative initiatives on Cuba during the Trump Administration, see CRS Report R44822, *Cuba: U.S. Policy in the 115th Congress* and CRS Report R45657, *Cuba: U.S. Policy in the 116th Congress and Through the Trump Administration*.

Selected Issues in U.S.-Cuban Relations

U.S. Restrictions on Travel and Remittances⁶³

Travel Restrictions. Restrictions on travel to Cuba have been a key and often contentious component of U.S. efforts to isolate Cuba's communist government. The embargo regulations set forth in the CACR do not ban travel itself but restrict financial transactions related to Cuba. Numerous changes to the restrictions have occurred over time. For five years, from 1977 until 1982, there were no restrictions on travel. In 2000, Congress prohibited the authorization of transactions related to U.S. travel to Cuba solely for tourist activities when it enacted TSRA; a provision in the law defined "tourist activities" as any activity not expressly authorized in the 12 categories of travel in the CACR (see text box). The George W. Bush Administration (2001-2009) tightened U.S. restrictions on Cuba travel and the enforcement of travel restrictions. Congress took legislative action in March 2009 to ease restrictions on family travel and on travel related to U.S. agricultural and medical sales to Cuba (P.L. 111-8, Sections 620 and 621 of Division D).

The Obama Administration (2009-2017) significantly eased restrictions on travel to Cuba. In 2009, the Administration lifted restrictions on family travel. In 2011, it eased restrictions on certain other categories of travel, including group people-to-people educational travel, and allowed all U.S. international airports to become eligible for licensed charter flights to and from Cuba (previously, charter flights were limited to international airports in Miami, Los Angeles, and New York). In 2016, the Obama Administration eased restrictions by authorizing general licenses for the existing 12 categories of travel to Cuba (before the change, travelers under several of these categories had to apply for a specific license) and by authorizing individual people-to-people educational travel.⁶⁴ In 2016, the Administration increased transportation opportunities to Cuba with regular commercial air service (as opposed to charter flights) and cruise ship service to Cuba from the United States.

Current Permissible Cuba Travel: 12 Categories

- Family Visits
- Official Government Business
- Journalistic Activities
- Professional Research and Professional Meetings
- Educational Activities (currently includes group people-to-people travel)
- Religious Activities
- Public Performances, Clinics, Workshops, Athletic and Other Competitions, and Exhibitions
- Support for the Cuban People
- Humanitarian Projects
- Activities of Private Foundations or Research or Educational Institutes
- Exportation, Importation, or Transmission of Information or Informational Materials
- Authorized Export Transactions

Source: 31 C.F.R. §515.560, at <https://www.ecfr.gov/current/title-31/subtitle-B/chapter-V/part-515/subpart-E/section-515.560>.

The Trump Administration (2017-2021) reimposed certain restrictions on travel and limited transportation to Cuba from the United States. In 2017, it eliminated an authorization for individual people-to-people education travel (under the travel category of educational activities), and in 2019, it eliminated group people-to-people travel. Also in 2019, the Administration

⁶³ For more information, see CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*.

⁶⁴ A general license provides the authority to engage in a transaction without the need to apply to the U.S. Department of the Treasury for a license. In contrast, a specific license is a written document issued by the U.S. Department of the Treasury to a person or entity authorizing a particular transaction in response to a written license application.

prohibited cruise ships, sailboats, fishing boats, and private and corporate aircraft from going to Cuba from the United States. That same year, the Administration restricted regularly scheduled flights to Havana (prohibiting flights to other Cuban cities); in 2020, the Administration also restricted charter flights to Havana. Also in 2020, the Administration eliminated general licenses for attending or organizing professional meetings or conferences in Cuba and for participating in public performances, clinics, workshops, certain athletic or nonathletic competitions, and exhibitions. In addition, as noted above, the Administration's introduction of a "Cuba Restricted List" in 2017 prohibited most categories of authorized travelers from direct financial transaction with certain hotels, tourist agencies, marinas, and stores. The Administration's subsequent introduction of a "Cuba Prohibited Accommodations List" in 2020 prohibited most authorized travelers from lodging at over 400 hotels and privately owned residences for rent.

The Biden Administration has rolled back some of the travel restrictions imposed by the Trump Administration. In June 2022, the Biden Administration reauthorized regularly scheduled and charter flights to Cuban cities other than Havana. It also reinstated group (but not individual) people-to-people educational travel and a general license authorization for attending or organizing professional meetings or conferences in Cuba.

According to Cuban government statistics, the number of travelers from the United States to Cuba reached almost 1.2 million in 2018 but fell slightly to 1.1 million in 2019. Travel declined significantly in 2020 and 2021 to around 188,000 and 36,000 travelers, respectively, largely due to COVID-19-related travel restrictions but also because of U.S. travel restrictions imposed in 2019 and 2020. In the first seven months of 2022, as pandemic-related travel restrictions eased, travel to Cuba from the United States began to pick up, with over 200,000 travelers.⁶⁵

Restrictions on Remittances. Much like restrictions on travel, restrictions on sending cash remittances to Cuba have been part of the U.S. sanctions regime and have changed over time. The Obama Administration significantly eased restrictions on remittances. In 2009, it lifted limitations on the amount and frequency of family remittances. It authorized remittances to any Cuban national (up to \$500 per quarter) in 2011 and lifted the dollar limit for such donative remittances in 2015. It also authorized by general license remittances to individuals and independent nongovernmental organizations to support humanitarian projects; a rapid peaceful transition to democracy; the strengthening of civil society; and the development of private businesses, including small farms.

In contrast, the Trump Administration imposed restrictions on remittances. In 2019, it capped family remittances to any one Cuban national to \$1,000 per quarter, eliminated the category of donative remittances to Cuban nationals, and prohibited family remittances to close family members of prohibited Cuban government officials and Cuban Communist Party officials. In 2020, it added to the "Cuba Restricted List" two Cuban financial services companies—*Financiera Cimex* (FINCIMEX) and American International Services—involved in facilitating the processing of foreign remittances to Cuba. In the same year, it amended the CACR to prohibit the processing of remittances through any entities on the "Cuba Restricted List." These actions led Western Union, which had partnered with FINCIMEX since 2016, to announce termination of its remittances services to Cuba in November 2020.⁶⁶ Western Union had been the major financial

⁶⁵ República de Cuba, Oficina Nacional de Estadísticas e Información (ONEI), Anuario Estadístico de Cuba 2020, Capítulo 15: Turismo (Edición 2021); ONEI, Turismo Internacional Indicadores Seleccionados, Enero-Diciembre 2019 (Edición Marzo 2020), Enero-Diciembre 2020 (Edición May 2021), and Enero-Diciembre 2021 (Edición Marzo 2022); and ONEI, "Turismo, Arribo de Viajeros y Visitantes Internacionales, Información Preliminar," Julio 2022.

⁶⁶ Western Union, "Cuba: A Letter to Our Customers," November 13, 2020, at <https://www.westernunion.com/blog/a-letter-to-our-cuba-customers/>.

services company used for transmitting remittances to Cuba, with more than 400 offices on the island.

The Biden Administration has partially lifted restrictions on remittances. In June 2022, by amending the CACR, it eliminated the dollar and frequency limits for family remittances and restored the category of donative remittances. The Administration maintained that it would not remove entities from the “Cuba Restricted List,” so that remittances through FINCIMEX remain prohibited.⁶⁷

Legislative Initiatives. In the 117th Congress, two introduced bills would lift economic sanctions on Cuba, including restrictions on travel and remittances: S. 249 (Wyden), the United States-Cuba Trade Act of 2021, introduced in February 2021, and H.R. 3625 (Rush), the United States-Cuba Relations Normalization Act, introduced in May 2021.

U.S. Exports and Sanctions⁶⁸

U.S. commercial medical exports to Cuba have been authorized since the early 1990s pursuant to the CDA (P.L. 102-484, Title XVII), and commercial agricultural exports have been authorized since 2001 pursuant to TSRA (P.L. 106-387, Title IX), albeit with numerous restrictions and licensing requirements. For medical exports to Cuba, the CDA requires on-site verification that the exported item is to be used for the purpose for which it was intended and only for the use and benefit of the Cuban people. TSRA allows for one-year export licenses to sell agricultural commodities to Cuba, although no U.S. government assistance, foreign assistance, export assistance, credits, or credit guarantees are available to finance such exports. TSRA also denies exporters access to U.S. private commercial financing or credit; all transactions must be conducted in cash in advance or with financing from third countries. The 2018 farm bill (P.L. 115-334) permits funding for two U.S. agricultural export promotion programs—the Market Access Program and the Foreign Market Development Cooperation Program—for U.S. agricultural products in Cuba.

Regulatory changes made to CACR and EAR provisions in 2015-2016 under the Obama Administration included several actions designed to facilitate commercial exports to Cuba (some of these provisions were subsequently further amended during the Trump Administration). The regulatory changes in 2015-2016

- Permitted U.S. financial institutions to open correspondent accounts at Cuban financial institutions to facilitate the processing of authorized transactions (31 C.F.R. §515.584).
- Permitted U.S. private export financing for all authorized export trade to Cuba, except for agricultural goods exported pursuant to TSRA (31 C.F.R. §515.584).
- Revised the definition of the term *cash in advance* for payment for U.S. exports to Cuba to specify that it means *cash before transfer of title*. The change meant that payment may occur before an export shipment is offloaded in Cuba rather than before the shipment leaves a U.S. port (31 C.F.R. §515.533).
- Authorized commercial exports to Cuba of certain goods and services to support the Cuban people by improving their living conditions and supporting

⁶⁷ U.S. Department of State, “Background Press Call by Senior Administration Officials on New Cuba Policy,” press briefing via teleconference, May 16, 2022.

⁶⁸ For additional background on U.S. agricultural exports to Cuba, see CRS Report R46791, *U.S. Agricultural Trade with Cuba: Current Limitations and Future Prospects*.

independent economic activity; strengthening civil society; and improving the free flow of information to, for, and among the Cuban people (15 C.F.R. §740.21).

- Included licenses for certain categories of exports under a “general policy of approval.” These categories include exports for civil aviation and commercial aircraft safety; telecommunications; U.S. news bureaus; human rights organizations and nongovernmental organizations; environmental protection of U.S. and international air quality, waters, and coastlines; and agricultural inputs (e.g., insecticides, pesticides, herbicides) that fall outside the scope of those exports already allowed under TSRA (15 C.F.R. §746.2). In 2019, the Commerce Department amended the EAR to exclude the export or reexport of aircraft leased to state-owned airlines from its general policy of approval.⁶⁹
- Considered licenses for exports on a case-by-case basis, including certain items exported to state-owned enterprises, agencies, and other organizations of the Cuban government that provide goods and services for the use and benefit of the Cuban people (15 C.F.R. §746.2). In 2017, the Commerce Department amended the EAR to stipulate that export licenses for exports to state-owned enterprises generally would be denied for use by entities on the State Department’s “Cuba Restricted List” associated with the Cuban military, police, intelligence, or security services.⁷⁰

Cuba purchased over \$6.8 billion in U.S. products, largely agricultural, from 2001 through 2021. U.S. exports to Cuba rose from about \$7 million in 2001 to a high of \$718 million in 2008, far higher than in previous years. This increase was due in part to the rise in food prices and in part to Cuba’s increased food needs in the aftermath of several hurricanes and tropical storms that severely damaged the country’s agricultural sector. U.S. exports to Cuba have declined from that highpoint and fluctuated over the years, reaching a low of \$177 million in 2020 as the Cuban economy deteriorated amid the COVID-19 pandemic. U.S. exports to Cuba rose to \$327 million in 2021, however, increasing 85% over the previous year (see **Figure 2**). In the first half of 2022, U.S. exports to Cuba were valued at \$154 million, slightly lower than the same period in 2021. Looking at the composition of U.S. exports to Cuba, the leading products in 2021 were poultry (86%), soybeans (3.9%), and articles and medicines donated for relief or charity by individuals or private agencies (3.4%).⁷¹

Legislative Initiatives. In legislative action in the 117th Congress, on July 20, 2022, the House rejected (163-260) an amendment (H.Amdt. 300, Tlaib) to H.R. 8294, a six-bill FY2023 appropriations measure, which would have prevented any funds from being used to enforce a provision in TSRA (Section 908(b)) prohibiting private financing for U.S. agricultural exports.

Other legislative initiatives introduced in the 117th Congress would lift restrictions on trade with Cuba. Two broad bills, S. 249 (Wyden), the United States-Cuba Trade Act of 2021, introduced in February 2021, and H.R. 3625 (Rush), the United States-Cuba Relations Normalization Act, introduced in May 2021, would repeal or amend provisions of law restricting trade and other relations with Cuba and would extend nondiscriminatory trade treatment to the products of Cuba. S. 1694 (Klobuchar), the Freedom to Export to Cuba Act of 2021, introduced in May 2021, would

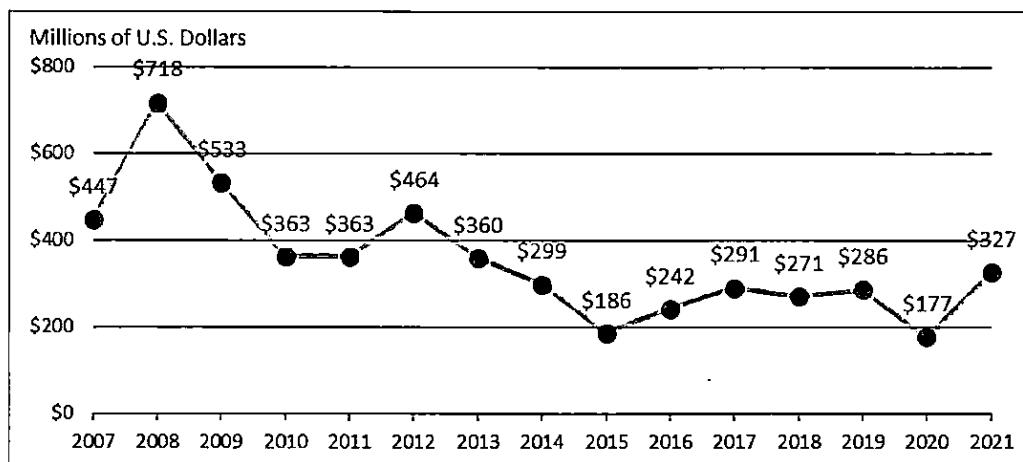
⁶⁹ U.S. Department of Commerce, “Restricting Additional Exports and Reexports to Cuba,” 84 *Federal Register* 56117-56121, October 21, 2019.

⁷⁰ U.S. Department of Commerce, “Amendments to Implement United States Policy Toward Cuba,” 82 *Federal Register* 51983-51986, November 9, 2017.

⁷¹ Trade statistics in this section are from the U.S. Department of Commerce, as presented by Trade Data Monitor.

repeal or amend provisions of law restricting trade and other relations with Cuba, including certain restrictions in the CDA, LIBERTAD Act, and TSRA.

Figure 2. U.S. Exports to Cuba, 2007-2021



Source: Created by CRS using Commerce Department statistics as presented by Trade Data Monitor.

Democracy and Human Rights Funding

Since 1996, the United States has provided assistance—through the U.S. Agency for International Development (USAID), the State Department, and the National Endowment for Democracy (NED)—to increase the flow of information on democracy, human rights, and free enterprise to Cuba. USAID and State Department efforts are funded largely through Economic Support Funds (ESF) in the annual SFOPS bill.

From FY2014 through FY2022, this funding included \$20 million in each fiscal year. The Trump Administration, as part of its efforts to reduce U.S. foreign assistance worldwide, attempted to cut assistance for Cuba democracy and human rights programs. The Administration did not request any funding for Cuba programs for FY2018 and requested \$10 million for FY2019, \$6 million for FY2020, and \$10 million for FY2021. Congress continued to appropriate \$20 million for each of those years.

Since FY2015, the State Department has administered a little over two-thirds of the Cuba democracy and human rights funding, a portion of which is implemented by NED, and USAID has administered the balance. For example, in the State Department's May 2021 notification to Congress for the obligation of FY2020 assistance for Cuba programs, the State Department was to administer \$13.75 million (including \$6.25 million implemented by NED) and USAID was to administer \$6.25 million. The assistance funds three program areas to strengthen independent Cuban civil society; promote the flow of independent media and the free flow of information; and promote the realization and protection of human rights, including the provision of basic assistance (food and medicine) to political prisoners and their families.⁷²

⁷² U.S. Department of State, "Congressional Notification 21-133: Cuba," May 21, 2021. Also see USAID's website for information on its Cuba program, at <https://www.usaid.gov/cuba>.

NED is not a U.S. government agency but an independent nongovernmental organization and has received about one-third of Cuba democracy and human rights funding in recent years. NED provides funding to a wide variety of human rights and pro-democracy civil society groups worldwide and in Cuba.⁷³

FY2022 Appropriations. For FY2022, the Biden Administration requested \$20 million in ESF to support independent civil society organizations in Cuba that promote democratic values, human rights, and fundamental freedoms. According to the budget request, the programs provide basic needs assistance to political prisoners and their families; strengthen the capacity of civil society groups; and promote the free flow of uncensored information to, from, and within Cuba.⁷⁴

Congress completed final action on FY2022 SFOPS appropriations in March 2022 in the Consolidated Appropriations Act, 2022 (P.L. 117-103, Division K). Although the measure did not specify an amount for Cuba democracy programming, the Administration estimates an allocation of \$20 million, the amount originally requested by the Administration.

The House-passed version of the FY2022 SFOPS bill, H.R. 4373, would have provided not more than \$20 million in ESF for democracy programs for Cuba (the amount requested by the Administration) in Section 7045(c); of these funds, not less than \$5 million would have been made available for programs to support free enterprise, private business organizations, and people-to-people educational and cultural activities. In contrast, Section 7045(c) of the Senate version of the FY2022 SFOPS bill, S. 3075, would have provided for \$5 million for such activities in addition to \$20 million in democracy funding.

FY2023 Appropriations. For FY2023, the Biden Administration again requested \$20 million to support democracy programs that align with Administration's goal of supporting the Cuban people, including their economic and political well-being and human rights. According to the request, programs will support independent groups and civil society organizations that promote democratic values, human rights, and fundamental freedoms. The programs will include basic needs assistance for persecuted activists, political prisoners, and their families. Support also will seek to enhance internet freedom and promote the flow of uncensored information to, from, and within the island.⁷⁵

The House Appropriations Committee's reported FY2023 SFOPS bill, H.R. 8282 (H.Rept. 117-401), would provide \$20 million for democracy programs, with not less than \$5 million to support private enterprise, private business organizations, and people-to-people educational and cultural activities. The introduced Senate SFOPS bill, S. 4662, and its explanatory statement do not specify an amount for Cuba democracy programs.

⁷³ See the National Endowment for Democracy's website for a listing of its Cuba grants in 2021, at <https://www.ned.org/region/latin-america-and-caribbean/cuba-2021/>, published February 12, 2022.

⁷⁴ U.S. Department of State, *Congressional Budget Justification for Foreign Operations, Fiscal Year 2022, Appendix 2*, p. 264.

⁷⁵ U.S. Department of State, *Congressional Budget Justification for Foreign Operations, Fiscal Year 2023, Appendix 2*, p. 296.

Radio and TV Martí⁷⁶

U.S.-government-sponsored radio and television broadcasting to Cuba—Radio and TV Martí—began in 1985 and 1990, respectively.⁷⁷ Until October 1999, U.S.-government-funded international broadcasting programs were a primary function of the United States Information Agency (USIA). When USIA was abolished and its functions merged into the Department of State at the beginning of FY2000, the Broadcasting Board of Governors became an independent agency that included such entities as the Voice of America, Radio Free Europe/Radio Liberty, Radio Free Asia, and the Office of Cuba Broadcasting (OCB). In 2018, the Broadcasting Board of Governors officially changed its name to the U.S. Agency for Global Media (USAGM).⁷⁸

OCB, which has been headquartered in Miami, FL, since 1998, manages Radio and TV Martí's multimedia services, which include radio (shortwave and AM), social media platforms (YouTube, Facebook, Instagram, and Twitter), and an online platform with streaming audio and video.⁷⁹ OCB provides 24-hour daily broadcasts to Cuba via its medium-wave transmitting station in Marathon, FL, and 18-hour daily broadcasts via USAGM's shortwave transmitting station in Greenville, NC. OCB content is also provided through flash drives, emails, DVDs, and SMS texts to help reach its Cuban audience.⁸⁰ According to USAGM's *2023 Congressional Budget Justification*, the OCB had a weekly audience of 1 million Cubans in FY2021. During the July 11, 2021, protests in Cuba, USAGM maintains that despite the government's disruption to social media platforms, circumvention tools helped 3.2 million people consume OCB content on Facebook.⁸¹

FY2022 Appropriations. For FY2022, the Biden Administration requested \$12.973 million for OCB funding. USAGM stated in its budget request that OCB would “continue to rigorously follow its fiscal, technological, and editorial reforms” and noted that as OCB continues its reform efforts, a primary focus is to deliver accurate news coverage in Cuba and provide a platform for diverse voices throughout the island. USAGM maintained that OCB would work closely with USAGM and the independent nonprofit Open Technology Fund to increase circumvention of Cuban government censorship.⁸²

In the Consolidated Appropriations Act, 2022 (P.L. 117-103, Division K), and its explanatory statement, Congress fully funded the Administration's OCB request. (Both the report to the House-passed FY2022 SFOPS bill (H.Rept. 117-84 to H.R. 4373) and the explanatory statement to the Senate-introduced bill, S. 3075, recommended fully funding the request.) The joint explanatory statement accompanying the law required the State Department to update a Cuba

⁷⁶ For background on U.S. international broadcasting, including Radio and TV Martí, see CRS Report R46968, *U.S. Agency for Global Media: Background, Governance, and Issues for Congress*.

⁷⁷ The Radio Broadcasting to Cuba Act (P.L. 98-111) was signed into law in October 1983. The Television Broadcasting to Cuba Act (P.L. 101-246, Title II, Part D) was signed into law in February 1990.

⁷⁸ With the new name, the agency also changed its website to <https://www.usagm.gov/>.

⁷⁹ The Radio and TV Martí website is at <https://www.radiotelevisionmarti.com/>.

⁸⁰ U.S. Agency for Global Media (USAGM), Office of Cuba Broadcasting (OCB), at <https://www.usagm.gov/networks/ocb/>.

⁸¹ USAGM, *FY2023 Congressional Budget Justification*, May 28, 2021, pp. 30, 93.

⁸² USAGM, *FY2022 Congressional Budget Justification*, May 28, 2021, p. 30. OCB's reform efforts, begun in 2019, emanated from a review by an outside panel of experts and an internal USAGM review of OCB's journalistic standards, editorial processes, and personnel practices. The reviews were prompted by media reports in 2018 of a TV Martí program with anti-Semitic content. For background, see section on “Radio and TV Martí” in CRS Report R45657, *Cuba: U.S. Policy in the 116th Congress and Through the Trump Administration*.

internet access report required by Section 7045 of S.Rept. 115-282. In addition, the joint explanatory statement directed federal departments and agencies to comply with reporting requirements in H.Rept. 117-84. One such requirement was that USAGM, in consultation with OCB, produce a report within 90 days of enactment that outlined

- reforms taken to address deficiencies identified in the USAGM-commissioned internal and external reviews of OCB's editorial policies and oversight procedures,
- implementation of recommendations identified in the State Department Office of the Inspector General's report in December 2020,⁸³ and
- plans for aligning OCB's personnel and activities with the budget request level.

FY2023 Appropriations. For FY2023, the Administration requested \$13.432 million for OCB. According to the request, OCB will target digitally connected Cubans where circumvention of the regime's censorship proves possible and will continue to align its content production, workforce structure, and skillsets with ongoing reforms aimed at improving content quality, strengthening journalist integrity, and reaching Cuban audiences more effectively. USAGM maintains that OCB will enhance circumvention tools to more effectively reach a larger audience and continue to work with the Open Technology Fund to explore emerging circumvention technologies and alternative methods for content distribution.⁸⁴

The House Appropriations Committee's reported FY2023 SFOPS bill, H.R. 8282 (H.Rept. 117-401), would provide \$12.973 million for OCB (same as provided for FY2022); an explanatory statement to the Senate bill, S. 4662, would recommend \$13.891 million.⁸⁵ The report to the House bill would require a report, within 90 days of enactment, similar to that required for FY2022 on reforms taken by USAGM, implementation of State Department Inspector General recommendations, and plans for aligning OCB's personnel and activities with the budget request level. The explanatory statement to the Senate bill maintains that the Senate Appropriations Committee continues to support the reform of broadcasting standards at OCB, as outlined in USAGM's *Embarking on Reform of the Office of Cuba Broadcasting* from May 2019. It also calls for the USAGM, in consultation with OCB, to continue to provide quarterly updates to the Committees on Appropriations on implementation of OCB reforms.⁸⁶

Migration Issues

Irregular Cuban migration to the United States has surged over the past year, driven by Cuba's difficult economic conditions and political repression, as well as by the drawdown of staffing at the U.S. Embassy in Havana since 2017 (which reduced access to legal immigration avenues). Congressional concerns have included the status of consular services provided at the U.S. Embassy in Havana and the Cuban Family Reunification Parole (CFRP) Program, which was suspended in 2017. In April 2022, U.S. and Cuban officials held migration talks—the first such talks since 2018—on the implementation of bilateral migration accords. On September 8-9, 2022,

⁸³ U.S. Department of State, Office of Inspector General, *Targeted Inspection of the U.S. Agency for Global Media: Journalistic Standards and Principles*, December 2020, at <https://www.stateoig.gov/reports/10801>.

⁸⁴ USAGM, *FY2023 Congressional Budget Justification*, March 28, 2022, pp. 29-33.

⁸⁵ The explanatory statement to S. 4662 is available from the Senate Appropriations Committee at <https://www.appropriations.senate.gov/download/sfopsfy23rpt>.

⁸⁶ USAGM, *Embarking on Reform of the Office of Cuba Broadcasting*, May 21, 2019, at <https://www.usagm.gov/wp-content/uploads/2019/05/Embarking-on-OCB-Reform-English.pdf>.

the U.S. Coast Guard and Cuban Border Guard held technical talks in Havana on operational cooperation to confront the illegal trafficking of migrants and illicit drug trafficking.⁸⁷ On September 21, 2022, the Administration announced that it would resume full immigrant visa processing at the U.S. Embassy in Havana in early 2023 for the first time since 2017.⁸⁸

Background on U.S.-Cuban Migration Accords. Since 1984, the United States has entered into four bilateral migration agreements with Cuba that are collectively known as the *Migration Accords*. In 1984—in the aftermath of the 1980 Mariel boatlift, in which 125,000 Cubans fled to the United States with the approval of Cuban officials—the United States negotiated an agreement to resume normal immigration procedures. The United States agreed to grant immigrant visas for up to 20,000 immigrants per year in addition to immigrant visas for parents, spouses, and unmarried children of U.S. citizens.⁸⁹

In 1994 and 1995, Cuba and the United States reached two additional migration agreements designed to stem another mass exodus of Cubans attempting to reach the United States by boat. In August 1994, amid escalating numbers of fleeing Cubans, President Clinton abruptly changed U.S. immigration policy, under which Cubans attempting to flee their homeland were allowed into the United States; he announced that the U.S. Coast Guard and Navy would take Cubans rescued at sea to the U.S. Naval Station at Guantanamo Bay, Cuba. In September 1994, Cuba and the United States reached a second bilateral migration agreement in which both countries agreed to facilitate safe, legal, and orderly Cuban migration to the United States, consistent with the earlier 1984 migration accord. The United States agreed to ensure total legal Cuban migration to the United States would be a minimum of 20,000 each year, not including immediate relatives of U.S. citizens.⁹⁰ In May 1995, the two countries reached a third migration agreement in which the United States would parole the more than 30,000 Cubans housed at Guantanamo into the United States but would intercept future Cuban migrants attempting to enter the United States by sea and return them to Cuba.⁹¹

In January 2017, the United States entered into a fourth migration agreement with Cuba. This agreement ended the so-called *wet foot/dry foot* policy under which thousands of unauthorized Cuban migrants had entered the United States since the mid-1990s. Under that policy, Cuban migrants interdicted at sea—even in U.S. coastal waters—generally were returned to Cuba, whereas those who reached U.S. land were allowed entrance into the United States and generally were permitted to stay. Cubans who reached the U.S. shore and were admitted or granted immigration parole were allowed to apply for permanent resident status in one year, pursuant to the Cuban Adjustment Act of 1966 (P.L. 89-732). Some criticized this policy as encouraging Cubans to risk their lives to make it to the United States and as encouraging alien smuggling. The January 2017 migration agreement that ended the wet foot/dry foot policy specified that Cuban nationals who attempted to enter the United States illegally and did not qualify for humanitarian

⁸⁷ CE NoticiasFinancieras, “U.S. and Cuban Authorities Discuss Migrant Smuggling in Havana,” September 10, 2022.

⁸⁸ U.S. Embassy in Cuba, “U.S. Embassy in Havana Prepares for Full Resumption of Immigrant Visa Services in Cuba, Will Accelerate Processing of Cuban Family Reunification,” September 21, 2022.

⁸⁹ U.S. Department of State, “Cuba Immigration, Joint Communique on Immigration Matters, with Minute on Implementation,” TIAS 11057, December 14, 1984.

⁹⁰ U.S. Department of State, “Cuba, Normalizing Migration Procedures; Joint Communique Concerning Normalizing Migration Procedures,” Temp. State Dept. No. 94-232, September 9, 1994.

⁹¹ U.S. Department of State, “Cuba, Normalizing Migration Procedures, Joint Statement Regarding Normalization of Migration Procedures,” May 2, 1995.

relief were subject to removal. The Cuban government agreed to begin accepting the return of Cuban migrants who had been ordered removed.⁹²

Maritime Interdictions. Since the 1995 migration accord, the U.S. Coast Guard has interdicted thousands of Cubans at sea and returned them to their country. The number of Cubans interdicted at sea by the U.S. Coast Guard has fluctuated annually, influenced by several factors, including the economic situations in both Cuba and the United States. Interdictions reached over 5,000 in FY2016, driven by concerns among Cubans that the favorable treatment granted to Cuban migrants would end. With the change in U.S. immigration policy toward Cuba in January 2017, the number of Cubans interdicted by the Coast Guard dropped significantly. Since Cuba's economic and political situation began to deteriorate in 2021, interdictions have grown significantly, with over 800 Cubans interdicted and returned to Cuba in FY2021, and over 5,600 in FY2022, as of September 15, 2022 (see Table 1).

Table 1. Maritime Interdictions of Cubans by the U.S. Coast Guard
(FY2016-FY2022)

	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022 ^a
Migrants	5,396	1,468	259	313	49	838	5,689

Source: United States Coast Guard, 7th District Southeast, news releases.

a. Interdiction statistics for FY2022 are through September 15, 2022.

Unauthorized Cuban Migration by Land. Beginning around FY2013, Cuban migrants without valid entry documentation began to favor land-based routes to enter the United States, especially via Southwest border ports of entry. With the January 2017 change in U.S. immigration policy toward Cubans, the number of Cuban migrants entering the United States by land declined. It began to increase again in FY2021.

According to data from U.S. Customs and Border Protection, nationwide encounters of Cuban migrants rose from 14,105 in FY2020 to 39,303 in FY2021 to almost 198,000 in the first 11 months of FY2022 (through August 2022), with the overwhelming majority at the Southwest land border.⁹³ The surge is caused by several factors. Notable factors include Cuba's difficult economic conditions, marked by shortages of food and medicine, high inflation, and electricity outages; increased political repression; and the 2017 suspension of immigration interviews and processing at the U.S. Embassy in Havana (these only recently resumed on a limited basis). Another factor that has facilitated irregular Cuban migration by land is that Nicaragua lifted visa requirements for Cubans in November 2021, spurring thousands of Cubans to use that country as the first stop on their journey to the U.S. border.

Consular Services at the U.S. Embassy in Havana. As noted, the Biden Administration restarted limited immigrant visa processing at the U.S. Embassy in Havana in May 2022 and said

⁹² White House, "Statement by the President on Cuban Immigration Policy," January 12, 2017; U.S. Department of Homeland Security, "Statement by Secretary Johnson on the Continued Normalization of Our Migration Relationship with Cuba," January 12, 2017; U.S. Department of Homeland Security, "Fact Sheet: Changes to Parole and Expedited Removal Policies Affecting Cuban Nationals," January 12, 2017; and U.S. Department of State, "Joint Statement Between the United States of America and Cuba," TIAS 17-112, January 12, 2017.

⁹³ U.S. Department of Homeland Security, U.S. Customs and Border Protection, "Nationwide Encounters," at <https://www.cbp.gov/newsroom/stats/nationwide-encounters>. Enforcement encounters include Title 8 apprehensions (the temporary detainment of a person who is not lawfully in the United States), Title 8 inadmissibles (foreign nationals encountered at a port of entry who seek lawful admission into the United States but who U.S. authorities determine to be inadmissible), and Title 42 expulsions (public health-related expulsions).

it would reinstate the CFRP Program, which was suspended in 2017; in September 2022, it announced that the U.S. Embassy in Havana would resume full immigrant visa services in Cuba in early 2023. The Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS), which established the CFRP Program in 2007, began conducting interviews at the U.S. Embassy in Havana in August 2022, focusing on pending CFRP Program applications.⁹⁴ When the CFRP Program was established, it aimed to help the United States meet its annual obligation of 20,000 travel documents under the 1994 bilateral migration agreement. The program allows certain U.S. citizens and permanent residents with approved petitions for family members in Cuba to apply for immigration parole for those individuals. If a CFRP application is approved, family members in Cuba are issued documentation to enable them to travel to the United States. Until its suspension, around 75% of the immigrant travel documents issued annually for Cuban nationals were issued under the CFRP Program.⁹⁵ Because of the suspension of immigrant visa services at the U.S. Embassy in Havana, the United States has not met its 20,000 commitment under the accord since FY2017.

Limited immigrant visa processing at the U.S. Embassy in Havana began in May 2022, prioritizing IR-5 (parent of a U.S. citizen) cases. Currently, the U.S. Embassy in Georgetown, Guyana, remains the primary processing location for the majority of Cuban immigrant visa applications.⁹⁶ When the Biden Administration announced the resumption of limited immigration visa processing and the reinstatement of the CFRP Program, U.S. officials indicated they wanted "to staff up so that that we can begin processing the full 20,000 immigrant visas out of Havana as quickly as possible."⁹⁷ When the Administration announced in September 2022 that it was preparing to fully resume immigrant visa services at the U.S. Embassy in Havana in early 2023, it noted that the change will "eliminate the need for Cubans applying for immigrant visas in family preference categories to travel outside of Cuba to Georgetown, Guyana for their interviews."⁹⁸

Most temporary nonimmigrant visa processing at the U.S. Embassy in Havana remains suspended, except for diplomatic or official visas and for medical emergencies.⁹⁹ Cubans applying for other categories of nonimmigrant visas must go to a U.S. embassy or consulate in another country. In March 2019, the State Department announced it would no longer issue multiple-entry five-year B-2 visas (for tourism, family visits, medical treatment, and similar travel purposes) for Cuban nationals; instead, it would issue only single-entry B-2 visas for a stay of two months, with the possibility of a 30-day extension.¹⁰⁰ That change has made family travel from Cuba more difficult and has made it harder for those traveling from Cuba to buy supplies for their private-sector businesses.

⁹⁴ U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), "USCIS Resumes Cuban Family Reunification Parole Operations," September 1, 2022.

⁹⁵ For background on the Cuban Family Reunification Parole Program, see USCIS, "The Cuban Family Reunification Parole Program," at <https://www.uscis.gov/humanitarian/humanitarian-parole/cuban-family-reunification-parole-program>.

⁹⁶ U.S. Embassy in Cuba, "Havana Immigrant Visa Processing FAQs," April 6, 2022, at <https://cu.usembassy.gov/havana-immigrant-visa-processing-faqs/>.

⁹⁷ U.S. Department of State, "Background Press Call by Senior Administration Officials on New Cuba Policy," press briefing via teleconference, May 16, 2022.

⁹⁸ U.S. Embassy in Cuba, "U.S. Embassy in Havana Prepares for Full Resumption of Immigrant Visa Services in Cuba, Will Accelerate Processing of Cuban Family Reunification," September 21, 2022.

⁹⁹ U.S. Embassy in Cuba, "Nonimmigrant Visas," at <https://cu.usembassy.gov/visas/nonimmigrant-visas/>.

¹⁰⁰ U.S. Embassy in Cuba, "Decreasing B2 Visa Validity for Cuban Nationals," media note, March 15, 2019.

Legislative Initiatives. In the 117th Congress, the joint explanatory statement to the Consolidated Appropriations Act, 2022 (P.L. 117-103, Division K), required an updated State Department report on consular services at the U.S. Embassy in Havana, originally required in S.Rept. 116-126. For FY2023, the explanatory statement to S. 4662 would require a State Department report, within 60 days of enactment, on consular personnel at the U.S. Embassy in Havana and statistics on visas granted to Cubans by type.

Three other introduced bills touch on Cuban immigration issues. H.R. 2684 (Diaz-Balart), introduced in April 2021, would amend the Immigration and Nationality Act (P.L. 82-414, as amended) to establish a Cuban family reunification parole program. H.R. 6907 (Wasserman Schultz), introduced in March 2022, would direct the Secretary of Homeland Security to reinstate the processing of applications for parole under the CFRP Program. S. 2138 (Menendez), introduced in June 2021, would require the Secretary of Homeland Security, in coordination with the Secretary of State, to reinstate the Cuban Medical Professional Parole Program to authorize the admission into the United States of Cuban medical personnel conscripted to study or work in a third country under the Cuban government's direction.¹⁰¹

U.S. Fugitives from Justice

Cuba has provided safe haven to several U.S. fugitives from justice, including convicted murderers and hijackers. Most of these fugitives entered Cuba in the 1970s and early 1980s. For example, Joanne Chesimard, also known as Assata Shakur, was added to the Federal Bureau of Investigation's (FBI's) Most Wanted Terrorist list in May 2013. Chesimard was part of militant group known as the Black Liberation Army. In 1977, she was convicted for the 1973 murder of a New Jersey State Police officer and sentenced to life in prison. Chesimard escaped from prison in 1979 and, according to the FBI, lived underground before fleeing to Cuba in 1984.¹⁰² Another fugitive, William "Guillermo" Morales, who was a member of the Puerto Rican militant group known as the Armed Forces of National Liberation, reportedly has been in Cuba since 1988, after being imprisoned in Mexico for several years. He was convicted in New York on weapons charges in 1979 and sentenced to 10 years in prison and 5 years' probation, but he escaped from prison the same year.¹⁰³

In addition to Chesimard and Morales, several other U.S. fugitives in Cuba are named in the State Department's *Country Reports on Terrorism 2020* (issued in December 2021).¹⁰⁴ Ishmael Muslim Ali (Ronald LaBeet) is wanted for the 1984 hijacking of a flight to Cuba from the U.S. Virgin Islands, where he had received eight life sentences after being convicted of killing eight tourists in 1972.¹⁰⁵ Charles Lee Hill is wanted for his alleged involvement in several violent crimes in

¹⁰¹ Established in 2006 and administered by the Department of Homeland Security, the Cuban Medical Professional Parole Program allowed Cuban medical professionals in third countries to be approved for entry into the United States. The program was terminated in January 2017. See U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Cuban Medical Professional Parole (CMPP) Program," January 19, 2017, at <https://www.uscis.gov/humanitarian/humanitarian-parole/cuban-medical-professional-parole-cmpp-program>.

¹⁰² Federal Bureau of Investigation (FBI), "Most Wanted Terrorists: Joanne Deborah Chesimard," poster, at http://www.fbi.gov/wanted/wanted_terrorists/joanne-deborah-chesimard/view.

¹⁰³ James Anderson, "Living in Exile, Maimed Guerrilla Maintains Low-Key Profile in Cuba," *Fort Worth Star-Telegram*, January 16, 2000; Vanessa Bauza, "FBI's Fugitive Is Cuba's Political Refugee," *South Florida Sun-Sentinel*, May 26, 2002; Mary Jordan, "Fugitives Sought by U.S. Find a Protector in Cuba," *Washington Post*, September 2, 2002.

¹⁰⁴ U.S. Department of State, *Country Report on Terrorism 2020: Cuba*, December 16, 2022, at <https://www.state.gov/reports/country-reports-on-terrorism-2020/cuba/>.

¹⁰⁵ FBI, "Most Wanted: Ishmael Muslim Ali," poster, at <https://www.fbi.gov/wanted/dt/ishmail-muslim-ali>; and Azam

1971, including the shooting death of a New Mexico State Police officer and the hijacking of a plane to avoid prosecution.¹⁰⁶ Ambrose Henry Montfort is wanted for the hijacking of a passenger aircraft to Cuba in 1983.¹⁰⁷ Victor Manuel Gerena, a member of a Puerto Rican militant separatist group, is wanted for the 1983 armed robbery of a security company in West Hartford, CT.

With the resumption of diplomatic relations with Cuba in 2015, the United States held several law enforcement dialogues that reportedly included discussion of the issue of U.S. fugitives from justice; the most recent such dialogue was in July 2018.¹⁰⁸ As noted, in January 2021, then-Secretary of State Pompeo designated the government of Cuba as a state sponsor of international terrorism, citing Cuba's harboring of several U.S. fugitives from justice among the reasons for designation.¹⁰⁹

Although the United States and Cuba signed an extradition treaty in 1904 (which entered into force in 1905 and was amended by an additional extradition treaty in 1926), the treaty has not been used under the current Cuban government. Instead, Cuba has returned fugitives to the United States on a case-by-case basis. For example, in 2018, Cuba returned a New Jersey man wanted on murder charges and a long-sought U.S. fugitive from justice wanted in connection with ecoterrorism who had stopped in Cuba on his way to Russia.¹¹⁰ Generally, however, Cuba has refused to render to U.S. justice any fugitive judged by Cuba to be "political," such as Chesimard, who Cuba contends could not receive a fair trial in the United States.

Legislative Initiatives. In the 117th Congress, S. 4715, introduced in August 2022, would call for the immediate extradition and return to the United States of U.S. fugitives receiving safe haven in Cuba. It also would require a State Department report identifying steps taken to secure the extradition or return to the United States of U.S. fugitives residing in Cuba and, to the extent feasible, include an estimate of the number of U.S. fugitives receiving safe haven in Cuba. In addition, the bill would prohibit the use of International Narcotics Control and Law Enforcement assistance for programs or initiatives in Cuba until Cuba fulfills certain conditions regarding its extradition obligations and other broad political and other conditions set forth in the LIBERTAD Act of 1996.

Two other bills have been introduced related to fugitives from Cuba. S. 689, introduced in March 2021, would, among other provisions, require the President to submit a report to certain committees that identifies terrorists and fugitives being provided safe haven in Cuba. H.R. 8651, introduced in August 2022, would require the President to submit an annual report to Congress on fugitives currently residing in other countries whose extradition is sought by the United States. The bill also would express the sense of Congress that in meeting foreign officials, U.S. officials should prioritize advocacy in fulfilling U.S. extradition requests, including that for Joanne Chesimard.

Ahmed, "Convicted of Murder and Now Swept Up in U.S.-Cuba Shift," *New York Times*, July 8, 2017.

¹⁰⁶ FBI, "Most Wanted: Charles Lee Hill," poster, at <https://www.fbi.gov/wanted/murders/charles-lee-hill>.

¹⁰⁷ FBI, "Most Wanted: Ambrose Henry Montfort," poster, at <https://www.fbi.gov/wanted/dt/ambrose-henry-montfort>.

¹⁰⁸ U.S. Department of State, "United States and Cuba Hold Fourth Law Enforcement Dialogue in Washington, DC," media note, July 10, 2018.

¹⁰⁹ U.S. Department of State, Secretary of State Michael R. Pompeo, "U.S. Announces Designation of Cuba as a State Sponsor of Terrorism," January 11, 2021.

¹¹⁰ CBS News, "Suspected Eco-Terrorist Arrested in Cuba After 20 Years as a Fugitive," August 11, 2018; and Mimi Whitefield, "Cuba Extradites a 55-Year-Old American Lawyer to Face Murder Charges in N.J.," *Miami Herald*, November 7, 2018.

Trafficking in Persons and Cuba's Foreign Medical Missions

In 2022, for the fourth consecutive year, the State Department placed Cuba on Tier 3 in its annual *Trafficking in Persons Report* (TIP report), a status that refers to countries whose governments do not fully comply with the minimum standards for combatting trafficking and are not making significant efforts to do so.¹¹¹ According to the State Department's 2022 TIP report, issued in July 2022, "there was a government policy or pattern to profit from labor export programs with strong indications of forced labor, particularly in its foreign medical missions' program."¹¹² As noted in the report, Cuba has over 30,000 medical workers involved in missions in more than 60 countries and overseas territories worldwide. Amid the COVID-19 pandemic, Cuba's emergency medical contingent of nearly 5,000 medical workers has provided assistance to more than 40 countries.

Cuba's foreign medical diplomacy has long been a source of national pride and an example of Cuba's soft power worldwide to promote humanitarianism and generate political goodwill. The diplomacy has included short-term initiatives for disaster relief and epidemic control as well as longer-term initiatives, such as providing primary health care, staffing hospitals, and establishing health care facilities.¹¹³

Cuba's foreign medical mission program is not a solely humanitarian-based grant but a program in which the Cuban government benefits economically from countries that can pay for the medical services. Cuban government statistics show that in 2020 (latest year available), the export of health services accounted for 58% of Cuba's services exports, making it a major foreign exchange earner. The U.S. State Department maintains that the Cuban government collects between \$6 billion and \$8 billion annually from its foreign medical missions.¹¹⁴

Cuba's medical missions program has received growing criticism in recent years for its labor practices and alleged exploitation of medical personnel.¹¹⁵ The State Department's 2022 TIP report alleges that the Cuban government continued to deploy medical workers to foreign countries using deceptive and coercive tactics and failed to address labor violations and trafficking crimes, despite an increasing number of allegations about abuses from credible nongovernmental organizations, former participants, and foreign governments. According to the report, the Cuban government failed to inform participants of the terms of their contracts, only paid them a portion of their salaries, and threatened medical professionals and their family members with retaliation if participants left the program.¹¹⁶

¹¹¹ From 2015 through 2018, Cuba was on the Tier 2 Watch List, a status that refers to countries whose governments, despite making significant efforts, do not fully comply with the minimum standards and still have some specific problems or whose governments have made commitments to take additional anti-trafficking steps over the next year.

¹¹² U.S. Department of State, *Trafficking in Persons Report*, July 2022, pp. 193-195.

¹¹³ For further background on the development of Cuba's foreign medical missions, see Julie M. Feinsilver, "Fifty Years of Cuba's Medical Diplomacy: From Idealism to Pragmatism," *Cuban Studies*, vol. 41 (2010), pp. 85-104; John M. Kirk, "Cuba's Medical Internationalism: Development and Rationale," *Bulletin of Latin American Research*, vol. 28, no. 4, 2009, pp. 497-511; Sarah A. Blue, "Cuban Medical Internationalism: Domestic and International Impacts," *Journal of Latin American Geography*, vol. 9, no. 1, 2010, pp. 31-49; Pascal Fletcher, "Cuban Medics a Big Force on Haiti Cholera Frontline," Reuters News, December 10, 2010; and Monica Mark, "Cuba Leads Fights Against Ebola in Africa as West Frets About Border Security," *Guardian*, October 11, 2014.

¹¹⁴ ONEI, República de Cuba, Anuario Estadístico de Cuba 2021, Sector Externo, Edición 2022, p. 47; and U.S. Department of State, *Trafficking in Persons Report*, July 2022, p. 195.

¹¹⁵ For example, see "Cuba: Repressive Rules for Doctors Working Abroad," Human Rights Watch, July 23, 2020.

¹¹⁶ U.S. Department of State, *Trafficking in Persons Report*, July 2022, p. 195.

The Cuban government has spoken out against criticism of its foreign medical missions, alleging that U.S. influence and actions led to the termination of missions in some countries, such as Brazil and Ecuador. The Cuban government maintains that its “technicians and professionals who participate in these programs do so absolutely of their own free will.” The government asserts that Cuban medical professionals on foreign missions “continue to receive their full salary in Cuba, and also a stipend in the country of destination, along with other benefits.” It also maintains that when Cuba receives compensation from host countries, the funding contributes to the sustainability of Cuba’s health care system and covers the costs for its foreign medical missions, which provide health care services at no cost to many countries worldwide.¹¹⁷ Cuba’s foreign minister has denounced what he characterizes as U.S. lies about Cuba’s medical missions.¹¹⁸

Many countries view Cuban doctors as a key resource for their overwhelmed health care systems, although hiring Cuban medical personnel can lead to criticisms due to concerns over Cuba’s labor practices. In August 2022, the regional government of Calabria in Italy announced that it hired almost 500 doctors from Cuba.¹¹⁹ In May 2022, Mexican President Andrés Manuel López Obrador announced that Mexico would hire 500 Cuban doctors to help fill shortages; the first contingent of these doctors arrived in Mexico in July. Some in Mexico’s medical community have criticized the hiring of Cuban doctors, maintaining there are unemployed Mexican doctors who could do the job and questioning the qualifications of the Cuban medical personnel.¹²⁰

Legislative Initiatives. In the 117th Congress, the joint explanatory statement to the Consolidated Appropriations Act, 2022 (P.L. 117-103, Division K), required State Department compliance with a directive in H.Rept. 117-84 related to Cuba’s foreign medical mission. H.Rept. 117-84 directs the State Department to assess the Pan American Health Organization’s (PAHO’s) involvement in Cuba’s foreign medical missions program and to update the Committees on Appropriations on its findings, as well as on steps taken to improve PAHO’s transparency, internal oversight, and risk management.¹²¹ (In the 116th Congress, the Further Consolidated Appropriations Act, 2020 [P.L. 116-94] and the explanatory statement to the Consolidated Appropriations Act, 2021 [P.L. 116-260], referenced S.Rept. 116-126 and required State Department reports on PAHO’s role in facilitating agreements between foreign medical professionals from the Cuban government and other countries.)

In addition, S. 2138 (Menendez), introduced in June 2021, would require an annual State Department report identifying countries hosting Cuba’s foreign medical missions and a determination as to whether such personnel are subject to conditions that qualify as severe forms of trafficking in persons. The bill also would provide for the reinstatement of the Cuban Medical Professional Parole Program, and require a joint State Department and Health and Human Services Department report reviewing the findings of the role of PAHO in Brazil’s *Mais Médicos* program from 2013 to 2019, a summary of corrective actions to be taken by PAHO, and recommendations for further corrective actions.

¹¹⁷ Ministry of Foreign Affairs of Cuba, “The U.S. Crusade Against Cuba’s International Medical Cooperation, Declaration of the Ministry of Foreign Affairs of Cuba,” December 5, 2019.

¹¹⁸ Ministry of Foreign Affairs of Cuba, “Cuban FM Denounces the United States’ Lies About Medical Missions,” April 29, 2020; and CE Noticias Financieras, “Cuba Says U.S. ‘Deliberately Lies’ in Accusing It of Trafficking,” July 19, 2022.

¹¹⁹ Reuters News, “Cuba to Send Hundreds of Doctor’s to Italy’s Calabria Region,” August 19, 2022.

¹²⁰ *Latin News Weekly Report*, “Mexico: Cuban Medical Assistance Prompts Pushback,” May 19, 2022; and Paloma Duran, “Cuban Doctors Arrive in Mexico to Address Medical Deficit,” *Mexico Business News*, July 26, 2022.

¹²¹ The Pan American Health Organization is the specialized international health agency for the Americas and serves as the regional office for the Americas of the World Health Organization.

Outlook

Cuba is experiencing one of its most difficult economic and political periods since the end of the Cold War and the cutoff of assistance from the former Soviet Union in the early 1990s. Even before the country's massive oil storage fire in early August 2022, shortages of basic commodities and electricity outages were common. The fire further increased blackouts and long lines for gasoline and has spurred protests, although not at the level of the July 11, 2021, protests that the government harshly repressed. The difficult economic situation and continued political repression also has spurred a migration exodus to the United States via the U.S. Southwest border.

Looking ahead, Cuba's post-pandemic economic recovery likely will be constrained by damage to the country's main oil storage facility and its effect on the already frail, oil-dependent, electric power system. The state's continued domination of the economy, along with continued U.S. economic sanctions, also dims prospects for major economic improvement. Although additional social unrest is possible, it appears the country's one-party rule is strongly buoyed by its domestic security apparatus and control of most media.

When President Biden took office, many observers expected an early reversal of sanctions imposed on Cuba during the previous Administration and a return to a U.S. policy focused on engagement. Early on, the Biden Administration said it was reviewing policy decisions made by the prior Administration and announced that human rights would be a pillar of U.S. policy toward Cuba. As the human rights situation deteriorated and Cuba harshly repressed the July 2021 protests, the Biden Administration condemned Cuba's action and responded with targeted sanctions against those Cuban officials and security entities involved in the repression. The Administration ultimately unveiled several Cuba policy changes in May 2022, with the goal of increasing support to the Cuban people. These changes included efforts to facilitate family reunification and to ease some restrictions on travel and remittances, although many sanctions remain in place.

The 117th Congress has supported continued funding for Cuban democracy programs and U.S. broadcasting to Cuba. It also has expressed heightened concern about the human rights situation in Cuba through the approval of several resolutions. As in the past, Members of Congress maintain diverse opinions regarding the appropriate U.S. policy approach toward Cuba. Numerous legislative initiatives have been introduced to either increase or ease U.S. sanctions on Cuba (**Appendix A**). In July 2022, the House rejected a sanctions-easing amendment to an appropriations measure that would have prohibited funding to enforce a prohibition on private financing for U.S. agricultural exports to Cuba. The vote appears to demonstrate the effect of Cuba's harsh repression on congressional consideration of legislative initiatives on Cuba sanctions.

Appendix A. Legislative Initiatives in the 117th Congress

This appendix provides a listing of Cuba-related legislation and legislative initiatives in the 117th Congress, including enacted measures and resolutions, bills that received some congressional action, and bills and resolutions that were introduced. This report does not discuss the U.S. Naval Station at Guantanamo Bay, Cuba, with the exception of including in this appendix legislative provisions to prohibit funding from being used for the closure or relinquishment of control of the naval station. For information on the naval base, see CRS Report R44137, *Naval Station Guantanamo Bay: History and Legal Issues Regarding Its Lease Agreements*, by Jennifer K. Elsea.

Enacted Measures and Approved Resolutions

P.L. 117-46 (S. 1828). Helping American Victims Afflicted by Neurological Attacks Act of 2021, or the Havana Act of 2021. Introduced May 25, 2021, and referred to the Senate Committee on Homeland Security and Governmental Affairs. (In the House, a similar bill, H.R. 3356, was introduced May 19, 2021, and referred to House Committee on Foreign Affairs, and to the Permanent Select Committee on Intelligence.) Senate passed S. 1828 by Unanimous Consent June 7, 2021; House passed S. 1828 September 21, 2021, by a vote of 427-0. Signed into law October 8, 2021. The measure provided additional authority to the Central Intelligence Agency and the State Department to provide financial support to those serving abroad who experience traumatic brain injuries.

P.L. 117-81 (S. 1605). National Defense Authorization Act (NDAA) for Fiscal Year 2022. Originally approved by the Senate in June 2021 as a bill to designate the National Pulse Memorial Orlando, FL, S. 1605 became the vehicle for the FY2022 NDAA in December 2021. House passed (363-70), amended, December 7, 2021; Senate agreed (88-11) to the House amendment December 15, 2021. Signed into law December 27, 2021. Section 1035 extended a prohibition through FY2022 on the use of funds to close or relinquish control of the U.S. Naval Station, Guantanamo Bay, Cuba. Section 1338 required a report by the Secretary of State, in coordination with the Secretary of Defense, on efforts by China to expand its presence and influence in Latin America and the Caribbean, including, among its various requirements, a detailed description of the relationship between the governments of China and Cuba.

The measure included four provisions related to anomalous health incidents:

- Section 732, providing U.S. government employees and family members access to certain Department of Defense medical facilities for assessment and treatment;
- Section 910, requiring the Secretary of Defense to establish a cross-functional team to address national security challenges posed by such incidents and ensure individuals affected by such incidents receive timely, comprehensive care and treatment;
- Section 4501, authorizing \$30 million for anomalous health incidents health care; and
- Section 6603, requiring the President to designate a senior official as Anomalous Health Incidents Interagency Coordinator to coordinate the response of the U.S. government to such incidents, including equitable and timely access to assessment and care for those affected, adequate training and education for U.S. government personnel, U.S. government technological and research efforts, and

the development of options to prevent, mitigate, and deter suspected attacks presenting as such incident.

P.L. 117-103 (H.R. 2471). Consolidated Appropriations Act, 2022. Originally introduced in April 2021 as the Haiti Development, Accountability, and Institutional Transparency Initiative Act, the bill became the vehicle for the Consolidated Appropriations Act, 2022, approved in March 2022. It included 12 regular appropriations bills funding federal agencies for FY2022.

Division C (Department of Defense Appropriations Act, 2022), in Section 8148, prohibited the use of funds in the act from being used to carry out the closure or realignment of the U.S. Naval Station at Guantanamo Bay, Cuba.

Division J (Military Construction, Veteran Affairs, and Related Agencies Appropriations Act, 2022), in Section 140, prohibited the use of funds in the act to close or realign the U.S. Naval Station at Guantanamo Bay, Cuba.

Division K (Department of State, Foreign Operations, and Related Programs Appropriations, 2022) continued two long-standing provisions: Section 7007 prohibited direct funding for the government of Cuba, including direct loans, credits, insurance, and guarantees of the Export-Import Bank or its agents; and Section 7015(f) prohibited the obligation or expenditure of assistance for Cuba except through the regular notification procedures of the Committees on Appropriations. The explanatory statement to the bill allocated, as requested by the Administration, \$12.973 million for the Office of Cuba Broadcasting.

The joint explanatory statement to Division K included several State Department reporting requirements on Cuba: an update of a report on the condition of the U.S. Embassy in Havana, Cuba, originally required by S.Rept. 116-126; updated reports on consular services (including nonimmigrant visas) and on the causes and responsibility of health illnesses suffered by U.S. government personnel originally required in Section 7035 of S.Rept. 116-126; and an update of a Cuba internet access report required by Section 7045 of S.Rept. 115-282. The explanatory statement also required the Secretary of State to consult with the Committees on Appropriations on implementation of the Helping American Victims Afflicted by Neurological Attacks Act of 2021 (P.L. 117-46).

In addition, the joint explanatory statement directed federal departments and agencies to comply with reporting requirements and directives contained in H.Rept. 117-84 accompanying H.R. 4373, the FY2022 Department of State, Foreign Operations, and Related Programs Appropriations Act (SFOPS) bill passed by the House in July 2021, including

- a directive for the State Department to assess the Pan American Health Organization's (PAHO's) involvement in Cuba's foreign medical missions program and to update the Committees on Appropriations on its findings and on steps taken to improve PAHO's transparency, internal oversight, and risk management;
- a required U.S. Agency for Global Media (USAGM) report, in consultation with the Office of Cuba Broadcasting (OCB), within 90 days of enactment, outlining reforms taken to address deficiencies identified in USAGM-commissioned internal and external reviews of OCB's editorial policies and procedures, implementation of recommendations identified in a December 2020 State Department Office of Inspector General report, and plans for aligning OCB's personnel and activities with the budget request level; and
- a required report within 45 days of enactment detailing the results of the Administration's Cuba policy review that is to address the steps necessary to

advance the normalization of bilateral relations, recommendations for supporting the growth of a Cuban private sector independent of government control, the extent to which the government of Cuba has cooperated over the previous fiscal year on anti-terrorism efforts, and a timeline for safely restoring staffing levels at the U.S. Embassy in Havana.

S.Res. 37 (Menendez). The resolution expressed solidarity with the San Isidro Movement, condemned escalated attacks against artistic freedoms in Cuba, and called for the repeal of laws that violate freedom of expression and the immediate release of arbitrarily detained artists, journalists, and activists. Introduced February 8, 2021, and reported by Senate Committee on Foreign Relations with an amendment in the nature of a substitute March 24. Senate passed, amended, by unanimous consent April 15, 2021.

S.Res. 81 (Rubio). The resolution honored *Las Damas de Blanco*, a women-led nonviolent movement in support of freedom and human rights in Cuba, and called for the release of all political prisoners in Cuba. Introduced March 1, 2021, and reported by Senate Committee on Foreign Relations March 24. Senate passed by unanimous consent May 12, 2021.

S.Res. 310 (Menendez). The resolution expressed solidarity with Cuban citizens demonstrating peacefully for fundamental freedoms, condemned the Cuban regime's acts of repression, and called for the immediate release of arbitrarily detained Cuban citizens. Introduced July 21, 2021, and reported by Senate Committee on Foreign Relations July 28. Senate passed, amended, by unanimous consent August 3, 2021.

S.Res. 489 (Scott, Rick)/H.Res. 867 (Diaz-Balart). The resolution commended the actions of Cuban human rights and democracy activist José Daniel Ferrer Garcia and all pro-democracy and human rights activists in demanding fundamental civil liberties in Cuba and speaking out against Cuba's brutal, totalitarian communist regime. S.Res. 489 introduced January 12, 2022; Senate agreed to without amendment by unanimous consent January 12, 2022. H.Res. 867 introduced January 12, 2022; referred to the House Committee on Foreign Affairs.

H.Res. 760 (Wasserman Schultz). The resolution expressed solidarity with the Cuban people participating in peaceful protests, condemned Cuba's repression of peaceful protesters and journalists, called on Cuba to end efforts to block internet access or restrict access to certain websites or applications, called on Cuban military and security forces not to arrest or detain peaceful protesters and to release all political prisoners and arbitrarily detained individuals, and urged certain U.S. government actions to support the Cuban people. Introduced and referred to the House Committee on Foreign Affairs November 1, 2021; House considered under suspension of rules and passed (382-40, 4 present) November 3, 2021.

S.Con.Res. 14. Concurrent resolution setting forth the congressional budget for the U.S. government for FY2022 and setting forth budgetary levels for FY2023 through FY2031. Introduced August 9, 2021; Senate passed (50-49), amended, August 11, 2021. House passed August 24, 2021, pursuant to the provisions of H.Res. 601 (approved by a vote of 220-212). As approved, Section 3010 provided for a deficit-neutral reserve fund relating to facilitating improved internet service for Cuban citizens; the provision was added by S.Amdt. 3097 (Rubio), which the Senate approved by voice vote on August 10, 2021.

Other Bills with Legislative Action

H.R. 4373 (Lee, Barbara)/S. 3075 (Coons). Department of State, Foreign Operations, and Related Programs Appropriations Act, 2022. H.R. 4373 introduced and reported by House

Committee on Appropriations (H.Rept. 117-84) July 6, 2021. House passed (217-212) July 28, 2021. S. 3075 introduced October 26, 2021.

Both bills would have continued two long-standing Cuba provisions: Section 7007 would have prohibited direct funding for the government of Cuba, including direct loans, credits, insurance, and guarantees of the Export-Import Bank or its agents, and Section 7015(f) would have prohibited obligating or expending assistance for Cuba except through the regular notification procedures of the Committees on Appropriations.

With regard to democracy funding, both bills would have fully funded the Administration's \$20 million request. However, Section 7045(c) of the House bill would have provided that of the \$20 million, not less than \$5 million would be made available for programs to support free enterprise, private business organizations, and people-to-people educational and cultural activities. In contrast, Section 7045(c) of the Senate bill would have provided for \$5 million for such activities in addition to the \$20 million in democracy funding. In both bills, Section 7045(c) also would have provided that funds under Title I of the act be made available for the operation of, and infrastructure and security improvements to, U.S. diplomatic facilities in Cuba and for costs associated with additional U.S. diplomatic personnel in Cuba.

With regard to U.S.-government sponsored broadcasting to Cuba, the report to the House bill, H.Rept. 117-84, and the explanatory statement to the Senate bill recommended \$12.973 million for OCB, the same as the Administration's request.

For final action on FY2022 foreign operations appropriations, see Consolidated Appropriations Act, 2022 (P.L. 117-103, Division K), which included several reporting requirements that originated in H.Rept. 117-84 to H.R. 4373 and the explanatory statement to S. 3075.

H.R. 4350 (Smith, Adam)/S. 2792 (Reed). National Defense Authorization Act for Fiscal Year 2022. H.R. 4350 introduced July 2, 2021; reported (H.Rept. 117-118) by the House Committee on Armed Services September 17, 2021; House passed (316-113) September 23, 2021. S. 2792 introduced and reported (S.Rept. 117-39) by the Senate Armed Services Committee September 22, 2021. In November 2021, the Senate began consideration of H.R. 4350, substituting its own version of the bill, but did not complete action when lawmakers could not agree on which amendments to consider for floor action. As approved by the House, H.R. 4350 had a provision (Section 1246) that would require a report on efforts by China to expand its presence and influence, including on the relationship between China and the governments of Venezuela and Cuba. As reported, S. 2792 had a provision (Section 1034) that would extend a prohibition on the use of funds to close or relinquish control of the U.S. Naval Station at Guantanamo Bay, Cuba. For final action on the FY2022 NDAA, see P.L. 117-81 (S. 1605), above.

H.R. 7900 (Smith, Adam)/S. 4543 (Reed). National Defense Authorization Act for Fiscal Year 2023. H.R. 7900 introduced May 27, 2022; reported (H.Rept. 117-397) by the House Committee on Armed Services July 1, 2022. House passed (329-101) July 14, 2022. S. 4543 introduced and reported (S.Rept. 117-130) by the Senate Armed Services Committee. As passed, H.R. 7900 included a provision (Section 1235) requiring a report on efforts by Russia to expand its presence and influence in Latin America and the Caribbean, including on the relationship between the Russian government and the governments of Cuba, Bolivia, Nicaragua, and Venezuela. As reported, S. 4543 had a provision (Section 1034) that would extend a prohibition on the use of funds to close or relinquish control of the U.S. Naval Station at Guantanamo Bay, Cuba.

H.R. 8282 (Lee, Barbara)/S. 4662 (Coons). Department of State, Foreign Operations, and Related Programs Appropriations Act, 2023. H.R. 8282 introduced and reported by House Committee on Appropriations (H.Rept. 117-401) July 1, 2022. S. 4662 introduced July 28, 2022; referred to Senate Committee on Appropriations. The House bill would provide \$20 million for

Cuba democracy programs, with not less than \$5 million to support private enterprise, private business organizations, and people-to-people educational and cultural activities; the bill also would provide for the operation of, and improvements to, U.S. diplomatic facilities in Cuba and for costs associated with additional U.S. diplomatic personnel.

With regard to Cuba broadcasting, H.Rept. 117-401 would recommend \$12.973 million for the OCB and the explanatory statement to the Senate bill would recommend \$13.891 million. H.Rept. 117-401 also would require a report, within 90 days of enactment, similar to that required for FY2022 on reforms taken by USAGM, implementation of State Department Inspector General recommendations, and plans for aligning OCB's personnel and activities with the budget request level. The explanatory statement to the Senate bill maintains that the Senate Appropriations Committee continues to support the reform of broadcasting standards at OCB, as outlined in USAGM's *Embarking on Reform of the Office of Cuba Broadcasting* from May 2019, and calls for the USAGM, in consultation with OCB, to continue to provide quarterly updates to the Committees on Appropriations on implementation of OCB reforms.

The explanatory statement to the Senate bill also would require an update of a State Department report on the condition of the U.S. Embassy in Havana originally required in S.Rept. 116-126 and a State Department report, within 60 days of enactment, on consular personnel at the U.S. Embassy in Havana and statistics on visas granted Cubans by type.

H.Amdt. 300 (Tlaib) to H.R. 8294. Amendment to prevent funds made available by this act from being made available to implement, administer, or enforce Section 908(b) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA; 22 U.S.C. §7207(b)), a prohibition on financing of agricultural sales to Cuba. Amendment failed (163-260) July 20, 2022.

S. 2045 (Cruz)/H.R. 6867 (Diaz-Balart). The bills would designate the area between the intersections of 16th Street Northwest and Fuller Street Northwest and 16th Street Northwest and Euclid Street Northwest in Washington, DC, as "Oswaldo Payá Way." S. 2045 introduced June 14, 2021, and discharged by Senate Committee on Homeland Security and Governmental Affairs by unanimous consent July 30, 2021. Senate passed by unanimous consent July 30, 2021. H.R. 6867 introduced February 28, 2022; referred to the House Committee on Oversight and Reform.

Other Introduced Resolutions and Bills

H.Res. 440 (Malliotakis). The resolution would commend Lithuania for refusing to ratify the European Union's Political Dialogue and Cooperation Agreement with Cuba. Introduced May 25, 2021; referred to the House Committee on Foreign Affairs.

H.Res. 527 (Diaz-Balart). The resolution would express solidarity with the Cuban people in their demands for freedom and respect for human rights. Introduced July 13, 2021; referred to the House Committee on Foreign Affairs.

H.Res. 529 (Malliotakis). The resolution would express that the House of Representatives stands in solidarity with the people of Cuba and their fight to achieve freedom, democracy, and human rights. Introduced July 13, 2021; referred to the House Committee on Foreign Affairs.

H.Res. 534 (Wasserman Schultz). The resolution would express solidarity with Cuban citizens demonstrating peacefully for fundamental freedoms, would condemn the Cuban regime's acts of repression, and would call for the immediate release of arbitrarily detained Cuban citizens. Introduced July 16, 2021; referred to the House Committee on Foreign Affairs.

S.Res. 116 (Rubio)/H.Res. 278 (Diaz-Balart). Similar resolutions would commemorate the 60th anniversary of the Bay of Pigs operation and would remember the members of Assault Brigade

2506. S.Res. 116 introduced March 16, 2021; referred to the Senate Committee on Foreign Relations. H.Res. 278 introduced March 26, 2021; referred to the House Committee on Foreign Affairs.

S.Res. 173 (Scott, Rick). The resolution would commend the actions of Cuban democracy and human rights activist José Daniel Ferrer García and the pro-democracy and human rights group the Patriotic Union of Cuba (UNPACU) to uphold fundamental freedoms and condemn Cuba's brutal communist regime. Introduced April 22, 2021; referred to the Senate Committee on Foreign Relations.

S.Res. 303 (Rubio). The resolution would express support for the people of Cuba in their demands for freedom and the fulfillment of basic needs and would condemn the communist regime in Cuba. Introduced July 15, 2021; referred to the Senate Committee on Foreign Relations.

S.Res. 717 (Rubio). The resolution would honor the life and legacy of Oswaldo Payá Sardiñas and his contributions to promote democracy and human rights in Cuba on the 10th anniversary of his death. Introduced July 21, 2022; referred to the Senate Committee on Foreign Relations.

S.Res. 728 (Scott, Rick)/H.Res. 1304 (Diaz-Balart). Identical resolutions would commend the bravery, courage, and resolve of human rights and pro-democracy activists in Cuba one year after the historic march of July 11, 2021. S.Res. 728 introduced July 28, 2022; referred to the Senate Committee on Foreign Relations. H.Res. 1304 introduced July 29, 2022; referred to the House Committee on Foreign Affairs.

H.R. 198 (Cohen). Baseball Diplomacy Act. The bill would waive certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball. Introduced January 5, 2021; referred to the Committee on Foreign Affairs and in addition to the Committee on the Judiciary.

H.R. 287 (Salazar)/S. 689 (Rubio). Fighting Oppression Until the Reign of Castro Ends Act, or the FORCE Act. Both bills would prohibit the removal of Cuba from the list of state sponsors of terrorism until the President makes a determination (subject to certain requirements and factors) described in Section 205 of the Cuban Liberty and Democratic Solidarity Act of 1996 (LIBERTAD Act; P.L. 104-114) that a transitional government in Cuba is in place. S. 689 also would require the President to submit a report to certain committees that identifies terrorists and fugitives being provided safe haven in Cuba. H.R. 287 introduced January 13, 2021, and referred to the House Committee on Foreign Affairs. S. 689 introduced March 10, 2021, and referred to the Senate Committee on Foreign Relations.

H.R. 2684 (Diaz-Balart). Cuban Family Reunification Modernization Act of 2021. The bill would amend the Immigration and Nationality Act (P.L. 82-414, as amended) to establish a Cuban family reunification parole program. Introduced April 20, 2021; referred to the House Committee on the Judiciary.

H.R. 3625 (Rush). United State-Cuba Relations Normalization Act. The bill would remove provisions of law restricting trade and other relations with Cuba; authorize common carriers to install and repair telecommunications equipment and facilities in Cuba and to otherwise provide telecommunications services between the United States and Cuba; prohibit restrictions on travel to and from Cuba and on transactions incident to such travel; call on the President to conduct negotiations with Cuba for the purpose of settling claims of U.S. nationals for the taking of property by the Cuban government and to engage in bilateral dialogue with the Cuban government to secure the protection of internationally recognized human rights; extend nondiscriminatory trade treatment to the products of Cuba; and prohibit limits on remittances to

Cuba. Introduced May 28, 2021; referred to the Committee on Foreign Affairs and in addition to the Committees on Ways and Means, Energy and Commerce, the Judiciary, Agriculture, and Financial Services.

H.R. 3455 (Wasserman Schultz)/S. 1748 (Menendez). No Stolen Trademarks Honored in America Act. Identical bills would modify a 1998 prohibition (Section 211 of Division A, Title II, P.L. 105-277) on recognition by U.S. courts of certain rights to certain marks, trade names, or commercial names. The bills would apply a fix so the sanction would apply to all nationals and would bring the sanction into compliance with a 2002 World Trade Organization dispute settlement ruling. H.R. 3455 introduced May 20, 2021; referred to House Committee on the Judiciary. S. 1748 introduced May 20, 2021; referred to Senate Committee on the Judiciary.

H.R. 5069 (Tenney). Championing Uncensored Bandwidths Access Act of 2021, or CUBA Act of 2021. The bill would direct the Secretary of State, in consultation with the Secretary of Defense, the Director of National Intelligence, and the Commissioner of the Federal Communications Commission, to develop and implement a strategy to establish internet resiliency and deliver internet access in Cuba. Introduced August 20, 2021; referred to the House Committee on Foreign Affairs.

H.R. 5557 (Donalds)/S. 2990 (Scott, Rick). Denying Earnings to the Military Oligarchy in Cuba and Restricting Activities of the Cuban Intelligence Apparatus Act, or the DEMOCRACIA Act. H.R. 5557 introduced October 12, 2021; referred to the Committee on Foreign Affairs and in addition to the Committees on the Judiciary and Rules. S. 2990 introduced October 18, 2021; referred to the Committee on Foreign Relations.

Among the bills' provisions, Section 4 would require the President to impose sanctions (asset blocking and visa restrictions) on foreign persons determined to be providing financial, material, or technological support or engaging in transactions related to the defense, security, and intelligence sectors of Cuba or any sector certified by the President as involved in carrying out human rights abuses or providing support for international terrorism. Section 5 would require the President to impose sanctions on foreign persons determined to be responsible for or complicit in, or directly or indirectly engaged in, serious human rights abuses or corruption in Cuba or who have materially assisted, sponsored, or provided financial, material, or technological support or goods in services in support of any such activity. Section 5 also would require sanctions on a wide range of Cuban government officials and employees and members of the Cuban Communist Party. Section 6 would require, for the termination of sanctions set forth in Sections 4 and 5, a presidential determination and certification of numerous Cuban government actions and the enactment into law of a joint resolution approving the President's determination and certification. Section 7 would require the President to take actions to provide unrestricted internet service to Cuba, including the establishment of an interagency task force to develop a long-term solution.

H.R. 6907 (Wasserman Schultz). Cuban Family Reunification Parole Act of 2022. The bill would direct the Secretary of Homeland Security to reinstate the processing of applications for parole under the Cuban Family Reunification Parole Program. Introduced March 2, 2022; referred to the House Committee on the Judiciary.

H.R. 7579 (Green, Mark). Western Hemisphere Nearshoring Act. Among its provisions, the bill would provide for the use of U.S. International Development Finance Corporation funds to finance moving expenses and necessary workforce development costs incurred by companies moving from China to Latin America or the Caribbean and would provide authority for the President to extend duty-free treatment for goods and services of companies moving from China to Latin America or the Caribbean. As defined in the bill, the term *Latin American or Caribbean country* shall include Cuba (or Venezuela) only if the Secretary of State determines and certifies

that the prior authorities of such country have renounced their illegitimate claim to power and if the government of such country has fulfilled certain conditions. Introduced April 26, 2022; referred to House Committee on Ways and Means and in addition to the Committee on Foreign Affairs.

H.R. 8651 (Smith, Christopher). Walter Patterson and Werner Foerster Justice and Extradition Act. The bill would direct the President to submit to Congress a report, not later than 270 days after enactment (and each 12-month period thereafter), on fugitives currently residing in other countries whose extradition is sought by the United States and related matters. The bill also would express the sense of Congress that in meetings with foreign officials from which the United States seeks the extradition of fugitives, U.S. ambassadors and other senior officials should prioritize advocacy on fulfilling U.S. extradition requests, including for Joanne Chesimard, an escaped convict and the murderer of New Jersey State Trooper Werner Foerster. Introduced August 2, 2022; referred to House Committee on Foreign Affairs.

S. 249 (Wyden). United States-Cuba Trade Act of 2021. The bill, among its provisions, would repeal or amend provisions of law restricting trade and other relations with Cuba; authorize common carriers to install, maintain, and repair telecommunications equipment and facilities in Cuba and provide telecommunications services between the United States and Cuba; prohibit restrictions on travel to Cuba; call for the President to take all necessary steps to advance negotiations with the Cuban government for settling property claims of U.S. nationals and for securing the protection of internationally recognized human rights; extend nondiscriminatory trade treatment to Cuba; prohibit restrictions on remittances to Cuba; and require a presidential determination reported to Congress prior to the denial of foreign tax credit with respect to certain foreign countries. Introduced February 4, 2021; referred to the Senate Committee on Finance.

S. 1694 (Klobuchar). Freedom to Export to Cuba Act of 2021. The bill would repeal or amend provisions of law restricting trade and other relations with Cuba, including certain restrictions in the Cuban Democracy Act of 1992, the LIBERTAD Act of 1996, and the TSRA. Introduced May 19, 2021; referred to the Senate Committee on Banking, Housing, and Urban Affairs.

S. 2138 (Menendez). Combating Trafficking of Cuban Doctors Act of 2021. The bill would require the Secretary of State to submit an annual report to Congress identifying countries hosting Cuban medical personnel who are participating in Cuban government foreign medical missions and determining whether such personnel in each country are subjected to conditions that qualify as severe forms of trafficking in persons. It also would require the Secretary of Homeland Security, in coordination with the Secretary of State, to reinstate the Cuban Medical Professional Parole Program and the Secretaries of State and Health and Human Services to submit a report to Congress that includes a review and findings of the role of PAHO in Brazil's Mais Médicos program between 2013 and 2019, corrective actions taken by PAHO, and recommendations for further corrective actions. In addition, it would require the Secretaries of State and Health and Human Services to take all necessary steps to ensure PAHO undertakes governance reforms that strengthen internal oversight and risk management for future programs. Introduced June 17, 2021; referred to the Senate Committee on the Judiciary.

S. 3468 (Risch). The bill would limit the removal of the Cuban government from the state sponsors of terrorism list until the President submits to Congress a determination and certification regarding certain actions by the Cuban government and until a joint resolution approving the determination and certification is enacted into law. The actions required by the determination and certification are that the Cuban government is cooperating fully with U.S. anti-terrorism efforts; has ceased to provide support to international terrorist groups; has ceased to provide support for acts of international terrorism; has extradited or otherwise rendered to the United States all persons sought by the U.S. Department of Justice for crimes committed in the United States; and

has ceased to provide support, including defense, intelligence, and security assistance, to the illegitimate regime of former President Nicolás Maduro in Venezuela. Introduced January 10, 2022; placed on Senate Legislative Calendar under General Orders.

S. 4715 (Menendez). Trooper Werner Foerster and Frank Connor Justice Act. Section 3 of the bill would express the sense of Congress that Joanne Chesimard, William “Guillermo” Morales, and all other fugitives receiving safe haven in Cuba must be extradited or returned immediately to the United States and that the Secretary of State and the Attorney General should leverage all appropriate diplomatic tools to secure the timely extradition or return of all U.S. fugitives from justice residing in Cuba. Section 4 would require a State Department report, within 180 days of enactment, that identifies steps taken to advance efforts to secure the extradition or return of U.S. fugitives residing in Cuba; includes a determination as to whether Cuba is fulfilling its obligations under bilateral extradition treaties; and, to the extent feasible, includes an estimate of the number of U.S. fugitives from justice who are receiving safe haven in Cuba. Section 5 would prohibit the use of International Narcotics Control and Law Enforcement assistance for programs or initiatives in Cuba until Cuba is actively fulfilling its extradition obligations, is returning U.S. fugitives from justice residing in Cuba, and is complying with conditions set for the resumption of economic activity between the United States and Cuba pursuant to law, including the LIBERTAD Act of 1996. Introduced August 2, 2022; referred to the Senate Committee on Foreign Relations.

S. 4285 (Menendez). Upholding the Inter-American Democratic Charter Act of 2022. Among its provisions, Section 8 of the bill would require the Secretary of State to develop a plan for addressing threats to democratic governance posed by corruption and criminality and the malign activities of nondemocratic states, including Cuba (as well as the People’s Republic of China, Russia, and Iran). Introduced May 19, 2022; referred to the Senate Committee on Foreign Relations.

Appendix B. Links to U.S. Government Reports

U.S. Relations with Cuba, Fact Sheet, Department of State

Date: November 22, 2019

Link: <https://www.state.gov/r/pa/ei/bgn/2886.htm>

Congressional Budget Justification for Foreign Operations FY2022, Appendix 2, Department of State

Date: July 6, 2021

Link: <https://www.state.gov/wp-content/uploads/2021/06/FY-2022-C-J-Appendix-2-FINAL-6-25-2021.pdf>

Congressional Budget Justification for Foreign Operations FY2023, Appendix 2, Department of State

Date: May 13, 2022

Link: <https://www.state.gov/wp-content/uploads/2022/05/FY-2023-Congressional-Budget-Justification-Appendix-2-final-5-9-2022.pdf>

Congressional Budget Justification FY2022, U.S. Agency for Global Media

Date: May 28, 2021

Link: <https://www.usagm.gov/wp-content/uploads/2021/06/USAGM-FY-2022-CBJ-Final-05.26.2021.pdf>

Congressional Budget Justification FY2023, U.S. Agency for Global Media

Date: March 28, 2022

Link: https://www.usagm.gov/wp-content/uploads/2022/03/USAGMBudget_FY23_CBJ_03-25-22-FINAL.pdf

Country Reports on Human Rights Practices for 2021, Cuba, Department of State

Date: April 12, 2022

Link: <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/cuba/>

Country Reports on Terrorism 2020, Cuba, Department of State

Date: December 16, 2021

Link: <https://www.state.gov/reports/country-reports-on-terrorism-2020/cuba/>

Cuba web page, Department of State

Link: <https://www.state.gov/countries-areas/cuba/>

Cuba web page, Department of Commerce, Bureau of Industry and Security

Link: <https://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations/cuba>

Cuba web page, Department of Agriculture, Foreign Agricultural Service

Link: <https://www.fas.usda.gov/regions/cuba>

Cuba Sanctions web page, Department of State

Link: <https://www.state.gov/cuba-sanctions/>

Cuba Sanctions web page, Department of the Treasury, Office of Foreign Assets Control

Link: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/cuba-sanctions>

International Religious Freedom Report for 2021, Cuba, Department of State

Date: June 2, 2022

Link: <https://www.state.gov/reports/2021-report-on-international-religious-freedom/cuba/>

International Narcotics Control Strategy Report 2022, Volume I, Drug and Chemical Control, p. 110, Department of State

Date: March 1, 2022

Link: <https://www.state.gov/wp-content/uploads/2022/03/22-00767-INCSR-2022-Vol-1.pdf>

International Narcotics Control Strategy Report 2022, Volume II, Money Laundering, pp. 78-80, Department of State

Date: March 1, 2022

Link: <https://www.state.gov/wp-content/uploads/2022/03/22-00768-INCSR-2022-Vol-2.pdf>

Trafficking in Persons Report 2022, Cuba, pp. 193-195, Department of State

Date: July 2022

Link: https://www.state.gov/wp-content/uploads/2022/08/22-00757-TIP-REPORT_072822-inaccessible.pdf

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IN FOCUS

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Cuba: U.S. Policy Overview

Cuban Political and Economic Developments

Cuba remains a one-party authoritarian state with a government that has sharply restricted freedoms of expression, association, assembly, and other basic human rights since the early years of the 1959 Cuban revolution.

Miguel Díaz-Canel succeeded Raúl Castro as president in 2018 and as head of the Cuban Communist Party (PCC) at its eighth party congress in April 2021. The departure of Castro and other older leaders from the PCC's Politburo reflects the generational change in Cuban leadership that began several years ago. While in power (2006-2018), Raúl Castro (who succeeded his brother, longtime leader Fidel Castro) began to move Cuba toward a mixed economy with a stronger private sector, but his government's slow, gradualist approach did not produce major improvements. Cuba adopted a new constitution in 2019 that introduced some reforms but maintained the state's dominance over the economy and the PCC's predominant political role.

The Cuban economy has been hard-hit by the economic shutdown associated with the Coronavirus Disease 2019 (COVID-19) pandemic; Venezuela's economic crisis, which has reduced support from that country; and U.S. sanctions. Cuba reports the economy contracted by 10.9% in 2020 and grew by 1.3% in 2021; in November 2022, the government cut its 2022 growth forecast from 4% to 2%. Cuba's growth forecast has been affected by a slower recovery of the tourism sector, the impact of Russia's invasion of Ukraine on the global economy (including food and fuel prices), an August 2022 fire that severely damaged Cuba's main oil storage facility, and Hurricane Ian, which caused severe damage to western Cuba in late September 2022 and a power outage across the country.

Cuba unified its dual currency system in 2021; the long-debated reform spurred inflation (with some estimates ranging from between 150% and 500% in 2021); the Economist Intelligence Unit is forecasting almost 66% inflation in 2022 and 44% in 2023.

Cuba's public health response to the pandemic initially kept cases and deaths low, but both surged in the summer of 2021. The country experienced another surge in cases in early 2022, but deaths remained low because of high vaccination rates. As of November 2022, Cuba reported over 8,500 deaths since the pandemic began (with one of the lowest mortality rates in the hemisphere) and had fully vaccinated 88% of its population with its own vaccines.

Increased Repression. Beginning in November 2020, the government cracked down on the San Isidro Movement (MSI), a civil society group opposed to restrictions on artistic expression. On July 11, 2021, anti-government demonstrations broke out in Havana and throughout the country, with thousands of Cubans protesting economic conditions (food and medicine shortages, blackouts) and long-standing concerns about the lack of political freedoms.

The government responded with harsh measures, including widespread detentions of protesters, civil society activists, and bystanders. Hundreds of the July 2021 protestors have been tried and convicted, including more than 25 minors. The human rights group Cuban Prisoners Defenders (CPD) reported that there were 1,027 political prisoners at the end of October 2022 (up from 152 on July 1, 2021), of which 743 were imprisoned and considered prisoners of conscience by CPD, 255 were under some form of conditional release, and 29 were imprisoned for other politically motivated acts.

U.S. Policy

Since the early 1960s, when the United States imposed a trade embargo on Cuba, the centerpiece of U.S. policy toward Cuba has consisted of economic sanctions aimed at isolating the Cuban government. The Obama Administration initiated a policy shift away from sanctions and toward engagement and the normalization of relations. Changes included the rescission of Cuba's designation as a state sponsor of international terrorism (May 2015); the restoration of diplomatic relations (July 2015); and eased restrictions on travel, remittances, trade, telecommunications, and banking and financial services (2015-2016). In contrast, the Trump Administration introduced new sanctions in 2017, including restrictions on transactions with companies controlled by the Cuban military. By 2019, the Trump Administration had largely abandoned engagement and significantly increased sanctions, particularly on travel and remittances.

In its initial months, the Biden Administration announced it was conducting a review of policy toward Cuba, with human rights a core pillar, and would review policy decisions made by the prior Administration. In the aftermath of the Cuban government's harsh response to the July 11, 2021 protests, the Biden Administration criticized Cuba's repression and imposed targeted sanctions on those involved. In July and August 2021, the Treasury Department imposed four rounds of financial sanctions on three Cuban security entities and eight officials. Between November 2021 and July 2022, the State Department announced four rounds of visa restrictions against 50 individuals involved in repressing protesters.

In May 2022, the Administration announced several Cuba policy changes aimed at increasing support for the Cuban people. The Administration increased immigrant visa processing at the U.S. Embassy in Havana and said it would reinstate the Cuban Family Reunification Parole (CFRP) program. It eased travel restrictions by reauthorizing scheduled and charter flights to cities beyond Havana and reinstating group people-to-people travel. It eased restrictions on sending cash remittances by eliminating the dollar and frequency limits for family remittances and reauthorizing donative remittances to Cuban nationals.

Increased Irregular Migration. Driven by Cuba's difficult economic conditions and political repression, irregular Cuban migration to the United States has surged over the past year. U.S. Customs and Border Protection (CBP) reported over 39,000 border enforcement encounters of Cuban migrants nationwide in FY2021 and over 224,000 in FY2022, with the overwhelming majority at the Southwest land border. For October 2022, the first month of FY2023, CBP reported almost 30,000 encounters of Cuban migrants. U.S. maritime interdiction of Cubans also has increased, with the Coast Guard reporting 838 interdictions in FY2021; 6,182 in FY2022; and in FY2023, as of mid-November 2022, over 2,000 Cuban migrants.

U.S. and Cuban officials held semiannual migration talks in April 2022 (the first since 2018), and again in November 2022, on the implementation of bilateral migration accords. The Administration announced in September 2022 that the U.S. Embassy in Havana would resume full immigrant visa processing in early 2023—the first time since 2017.

Selected U.S. Sanctions

Transactions with the Cuban Military. In 2017, the State Department published a list of entities controlled by the Cuban military, intelligence, or security services with which direct financial transactions would disproportionately benefit those services or personnel at the expense of the Cuban people or private enterprise. This "Cuba restricted list" includes 231 entities (ministries, hotels, businesses).

Travel and Remittances. Since 2019, U.S. restrictions have prohibited travel by cruise ships and by private and corporate aircraft. Since 2020, most U.S. travelers have been prohibited from staying at over 400 hotels and private residences identified as owned or controlled by the Cuban government. In 2020, a prohibition against processing remittances through "Cuba restricted list" entities resulted in Western Union terminating its services to Cuba.

Terrorism Designations. Since May 2020, pursuant to the Arms Export Control Act, the Secretary of State has included Cuba on an annual list of countries certified as *not cooperating fully* with U.S. anti-terrorism efforts. In early January 2021, pursuant to several laws, the Secretary of State designated Cuba as a state sponsor of international terrorism, citing its harboring of several U.S. fugitives and members of Colombia's National Liberation Army.

Injuries of U.S. Embassy Personnel

Between late 2016 and May 2018, 26 U.S. Embassy Havana community members suffered a series of unexplained injuries, including hearing loss and cognitive issues. In December 2020, the National Academies of Sciences, Engineering, and Medicine released a report concluding the most plausible mechanism for the source of the health symptoms was directed pulsed radio frequency energy. U.S. officials maintain that investigations into the cause or source of these anomalous health incidents have not reached a conclusion. A number of U.S. government and military officials worldwide have reported these symptoms since 2016.

Congress enacted legislation (P.L. 117-46) in September 2021 authorizing payment to Central Intelligence Agency and State Department personnel who experience certain

brain injuries. The National Defense Authorization Act for FY2022 (P.L. 117-81), approved in December 2021, has provisions to address health care and treatment, national security challenges, and U.S. government coordination of the response to the incidents.

117th Congress: Legislative Action on Cuba

For FY2022, the Biden Administration requested \$12.973 million for the Office of Cuba Broadcasting (OCB) and \$20 million for Cuba democracy programming. In the Consolidated Appropriations Act, 2022 (P.L. 117-103, Division K) and its explanatory statement, Congress fully funded the Administration's OCB request. Although the law did not specify an amount for Cuba democracy programming, the Administration estimates an allocation of \$20 million, the amount requested.

For FY2023, the Administration requested \$13.432 million for OCB and \$20 million for Cuba democracy funding. The House Appropriations Committee's reported FY2023 foreign aid appropriations bill, H.R. 8282 (H.Rept. 117-401), would provide \$12.973 million for OCB (same as for FY2022), while an explanatory statement to the Senate bill, S. 4662, would recommend \$13.891 million. The House bill would provide \$20 million for democracy programs, with not less than \$5 million to support private enterprise, private business organizations, and people-to-people educational and cultural activities; the bill would also provide for the operation of, and improvements to, U.S. diplomatic facilities in Cuba, and costs associated with additional U.S. diplomatic personnel.

On July 20, 2022, the House rejected (163-260) an amendment (H.Amdt. 300) to H.R. 8294, a six-bill FY2023 appropriations measure that would have prevented any funds from being used to enforce a U.S. sanctions provision prohibiting private financing for U.S. agricultural exports.

On human rights, the House and Senate approved H.Res. 760 and S.Res. 310, in November and August 2021, respectively; both condemned Cuba's repression, and called for the release of those detained. The Senate also passed S.Res. 37 in April 2021, expressing solidarity with the MSI; S.Res. 81 in May 2021, honoring *Las Damas de Blanco*, a woman-led human rights group; S. 2045 in July 2021, to rename the street in front of the Cuban Embassy after a democracy activist; and S.Res. 489 in January 2022, commending Cuban democracy and human rights activists.

Members of Congress have introduced a wide variety of other legislative initiatives on Cuba in the 117th Congress. These include bills that would ease or lift sanctions or promote engagement and bills that would impose further sanctions or restrictions on Cuba. Other initiatives focus on immigration parole programs for family reunification and for Cuban medical professionals.

For further information on such legislative initiatives, see CRS Report R47246, *Cuba: U.S. Policy in the 117th Congress*. Also see CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*.

Mark P. Sullivan, Specialist in Latin American Affairs

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3 of 15

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**DEFENDANT'S
EXHIBIT**

CASE
NO. 6:23-CV-00007

EXHIBIT
NO. 077

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

STATE OF TEXAS, *et al.*,

Plaintiffs,

VS.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, *et al.*,

Defendants, and

VALERIE LAVEUS, *et al.*,

Intervenor Defendants.

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CIVIL ACTION No.  
6:23-CV-00007

JUDGE DREW B. TIPTON

**INTERVENOR DEFENDANTS'**  
**TAB 77, ECF 175-12**



**Congressional Research Service**  
Informing the legislative debate since 1914

**EXHIBIT**

**11**

**IN FOCUS**

August 2, 2022

## Haiti: Political Conflict and U.S. Policy Overview

Conflict and political fragility have plagued Haiti, the poorest country in the Western Hemisphere, for much of its history. Haiti improved governance prior to the 2010 earthquake, but progress since has been uneven.

Democratic institutions remain weak and corruptible. Poverty remains extreme and economic disparity wide. Haiti's proximity to the United States, instability, and vulnerability to natural disasters have made relations with Haiti an ongoing policy issue for the U.S. government.

A year after the July 2021 assassination of President Jovenel Moïse and an August 2021 earthquake that killed 2,000 people, Haiti lacks an elected president, legislature, and mayors. No elections are scheduled to replace the expired terms of Haitian officials at any level of government. A political standoff between Prime Minister Ariel Henry's government and political and civil society leaders has occurred amid a worsening security crisis. The ongoing crises in Haiti are major concerns for the Biden Administration and many Members of Congress. U.S. policymakers have pushed for an inclusive, Haitian-led political accord leading to new elections and have increased security assistance for the Haitian police.

### Political Paralysis

As in past periods when Haitian presidents failed to hold timely elections, former President Moïse of the Haitian Tèt Kale Party (PHTK) had been governing extra-constitutionally prior to his assassination. Moïse failed to convene parliamentary elections due in 2019 and began ruling by decree in 2020. There was controversy over whether his term ended in February 2021 or February 2022. Moïse, like some other Haitian politicians and business leaders, allegedly provided money and arms to gangs and other criminal groups in exchange for suppressing anti-government protests, according to *Insight Crime*.

Following Moïse's July 2021 assassination, the United States and other donors supported Henry's bid to serve as prime minister over other competitors. Shortly before the assassination, Moïse had nominated Henry, a neurosurgeon, to be prime minister. The legislature lacked a quorum to consider him, however, and the president had not sworn him in. Henry's irregular path to his position and allegations of his possible involvement in Moïse's assassination, a case that remains unresolved, have eroded his credibility. Henry has fired officials who have sought to question him about the case. Under Henry, inflation has further damaged the economy and insecurity has worsened. As of August 1, 2022, 1.4% of the population had been fully vaccinated against Coronavirus Disease 2019 (COVID-19), according to Johns Hopkins University.

In September 2021, Henry and his supporters proposed that he name a provisional electoral council to convene elections and that he remain the single head of government until a

new elected government takes office. He has yet to appoint that council, and many civil society and political actors within Haiti have opposed Henry's proposal.

As an alternative to Henry's proposal, numerous civil society organizations and political parties, some in coalitions, have sought to form an interim government. After months of broad consultations, the Citizen Conference for a Haitian Solution to the Crisis (widely known as the Montana Group) came to an agreement in August 2021. The Montana Accord proposed a two-year interim government led by a president and prime minister, with oversight committees, to restore order, administer elections, and create a truth and justice commission to address past human rights violations. Although many civic leaders and political parties signed the Montana Accord, others did not (including some business groups, churches, and the PHTK and allied parties).

Negotiations between Henry and the Montana Group have yet to bear fruit. In June 2022, both parties named negotiation commissions that began meeting in mid-July. Some observers favor a Henry-Montana Group agreement, but others warn such an agreement may not receive broad enough support among the Haitian people to be successful.

### Security Crisis

Violent gangs, some formerly tied to the PHTK, threaten to overwhelm the government with greater resources and weaponry. Gangs have exerted power and control over territory, access to fuel, and the delivery of humanitarian aid, challenging the authority of the Haitian National Police (HNP) and other state institutions. Since Moïse's assassination, gangs have expanded their power, as evidenced by the October 2021 kidnapping of U.S. missionaries, hindering the HNP's ability to combat drug trafficking and other crimes.

There are as many as 200 gangs in Haiti, and they control 60% of Port-Au-Prince, key ports, and roads, according to a study commissioned by the U.S. Agency for International Development (USAID). From January to May 2022, kidnappings rose by 36% and homicides by 17%, according to U.N. data; sexual violence is rampant. A wave of gang violence in Port-Au-Prince in mid-July resulted in more than 470 killings, according to the United Nations. Impunity prevails in Haiti's weak justice system. In addition to failing to resolve Moïse's assassination, Haitian authorities have yet to arrest Jimmy Cherizier, a former HNP officer turned gang leader, or other Haitian officials implicated in the 2018 La Saline massacre of 71 people.

The escalating gang violence threatens to worsen political, economic, and social conditions in Haiti, a country where the U.N. Office for the Coordination of Humanitarian Affairs estimates that 40% of the population is in need of

humanitarian assistance. Violence has prompted closures of schools, businesses, markets, and medical facilities and has limited humanitarian access in some areas. Gang violence also could inhibit future disaster responses.

### U.S. Policy

U.S. policy goals in Haiti aim to support Haitians in their efforts to confront insecurity; restore democratic institutions; and promote economic growth, educational opportunities, and health care. The Biden Administration's political approach to Haiti has evolved from supporting the Henry government to pushing Henry, the Montana Group, and other stakeholders to reach an inclusive political accord. In a July 6, 2022, *Miami Herald* editorial, Assistant Secretary of State for Western Hemisphere Affairs Brian Nichols said, "the time has come for ... steps that will allow Haiti to restore democratic order."

U.S. and international donors, criticized for past interventions in the country, have emphasized their support for Haitian-led solutions to the country's challenges. On July 15, the U.N. Security Council requested that Haitian officials provide an update on progress toward a political accord by mid-October. The Security Council also renewed, but did not expand, the mandate of the U.N. Integrated Office in Haiti, established in 2019 to strengthen political stability and the rule of law in Haiti.

U.S. foreign assistance to Haiti for FY2022-FY2024 is to be guided by a two-year Integrated Country Strategies (ICS) adopted in March 2022. The Administration requested \$274.8 million in assistance for Haiti in FY2023, up from the \$204.4 million provided in FY2021, most of which would fund health and other development activities.

Although a complete breakdown of FY2022 aid to Haiti is not yet available, the United States allocated \$56 million in development assistance, as well as at least \$48 million in International Narcotics Control and Law Enforcement funds to support the HNP and \$5 million to improve prison conditions. U.S. assistance also has included more than \$153 million in humanitarian aid since the August 2021 earthquake, according to a July 2022 State Department fact sheet. USAID and the State Department have provided at least \$47 million in health aid to help Haiti address COVID-19 and have donated more than 500,000 vaccines. The Department of Defense has provided disaster relief and has donated \$5 million in equipment and health supplies.

U.S. policy toward Haiti also has included the use of sanctions; judicial support for the investigation into Moïse's assassination; and extradition for those complicit in arms trafficking, gang violence, and drug trafficking. In December 2020, the Treasury Department sanctioned Cherizier and two other former officials for grave human rights violations under the Global Magnitsky Act. The Department of Justice (DOJ) has assisted Haitian officials investigating the Moïse assassination. DOJ has secured the extradition of two individuals complicit in that crime as well as a gang leader responsible for the 2021 kidnapping of U.S. missionaries.

U.S. apprehensions of Haitian migrants have risen notably, both at sea and on the southwest border. From January to

June 2022, the International Organization for Migration assisted more than 19,000 Haitians repatriated to Haiti, 73% of whom were removed from the United States. The United States also has taken steps to provide legal migration and protection pathways for some Haitians. Some 155,000 Haitians may be eligible for relief from removal under the Temporary Protected Status designation announced in May 2021. In July 2022, the Administration said it would resume the Haitian Family Reunification Parole program, allowing certain U.S. citizens and legal permanent residents to seek parole for family members in Haiti.

### Congressional Action

The 117<sup>th</sup> Congress has enacted legislation, appropriated and conditioned foreign assistance, and conducted oversight of U.S. policy toward Haiti. Congress has held hearings and briefings on U.S. policy toward Haiti, U.S. treatment of Haitian migrants, and Haiti's April 2022 selection as one of the priority countries of focus under the Global Fragility Act (P.L. 116-94).

Congress enacted the Haiti Development, Accountability, and Institutional Transparency Initiative (HAITI Act; H.R. 2471/S. 1104) as part of the FY2022 Consolidated Appropriations Act (P.L. 117-103). The act requires U.S. agencies to measure the progress of post-disaster recovery and efforts to address corruption, governance, rule of law, and media freedoms in Haiti.

P.L. 117-103 does not designate an appropriations level for Haiti. The act requires the State Department to withhold those funds and any other aid for the central government of Haiti until a new president and parliament have taken office following free and fair elections or the Secretary of State determines a transitional government representative of Haitian society is in place and it is in the U.S. interest to provide assistance. Notwithstanding those requirements, the act allows U.S. agencies to provide assistance to support elections, anti-gang police and justice administration, public health, food security, water and sanitation, education, disaster relief and recovery, and other programs to meet basic human needs.

Congress is considering the FY2023 budget request. The FY2023 State and Foreign Operations appropriations bill reported by the House Appropriations Committee (H.R. 8282) does not designate a total funding level for Haiti; it includes the same conditions as P.L. 117-103. The report accompanying the bill (H.Rept. 117-401) would require a report by USAID on maternal care in Haiti. Additionally, measures to extend duty-free treatment from 2025 to 2035 with respect to imports from Haiti under the Caribbean Basin Economic Recovery Act have been introduced as the Haiti Economic Lift Program Extension Act of 2021 (S. 3279 in November 2021; H.R. 6136 in December 2021).

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**Clare Ribando Seelke**, Specialist in Latin American Affairs

**Maureen Taft-Morales**, Specialist in Latin American Affairs

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AD-88-B

**DEFENDANT'S  
EXHIBIT**

CASE  
NO. 6-23-CV-00007

EXHIBIT  
NO. 078

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

STATE OF TEXAS, *et al.*,

*Plaintiffs,*

vs.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, *et al.*,

*Defendants, and*

VALERIE LAVEUS, *et al.*,

*Intervenor Defendants.*

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CIVIL ACTION No.  
6:23-CV-00007

JUDGE DREW B. TIPTON

**INTERVENOR DEFENDANTS'**  
**TAB 78, ECF 175-13**



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

**Nicaragua: COI Update**

April 2017 to June 2022  
Last updated: June 15, 2022

**EXHIBIT  
12**

***Socio-Political & Human Rights Crisis***

The Inter-American Commission on Human Rights (IACHR) reported in June 2022 that “the state’s violent response to the social protests that started on April 18, 2018, triggered a serious political, social, and human rights crisis in Nicaragua.”<sup>1</sup> While Nicaragua has, historically, experienced “a long series of civil conflicts that have deeply divided the Central American country and drawn in the United States and other nations,”<sup>2</sup> its current crisis began in April 2018,<sup>3</sup> when “university students spearheaded a civil insurrection in the streets that quickly drew the support of key independent pillars of Nicaraguan society, including the private sector and the Catholic Church.”<sup>4</sup> A 2018 report by the Brookings Institution described the origins and initial evolution of the “2018 civil insurrection” in Nicaragua as follows:

In what would prove to be a fateful tactical error, the government announced a cost-cutting reform of the public pension system, but without sufficient public discussion or buy-in. On April 18, 2018, senior citizens and their student supporters took to the streets to protest. The government responded with disproportionate force, generating a rapid escalation of repression-protests-repression. Virulent rhetoric by Murillo<sup>5</sup> further incensed the demonstrators, communicating rapidly among themselves on social media (especially Twitter, Facebook, and WhatsApp).

Among the opposition, the issue quickly morphed into the repression itself—and the legitimacy of the Ortega-Murillo regime. In reference to the 1978-1979 uprising, protestors shouted this slogan: “Ortega y Somoza<sup>6</sup>, la misma cosa” (Ortega and Somoza are the same thing).

Shocked by the unprecedented level of official violence, and already irritated by if not estranged from El Carmen (Ortega’s compound), the lead private sector associations, the Catholic Church, and various civil society organizations and

<sup>1</sup> Annual Report 2021 - Chapter IV.B - Nicaragua, Inter-American Commission on Human Rights (IACHR), p.775, Jun. 2, 2022.

<sup>2</sup> Feinberg, Richard E., Nicaragua: Revolution and Restoration, Brookings Institution, p.2, Nov. 2018.

<sup>3</sup> Feinberg, Richard E., Nicaragua: Revolution and Restoration, Brookings Institution, p.2, 7, Nov. 2018; Annual Report 2021 - Chapter IV.B - Nicaragua, Inter-American Commission on Human Rights (IACHR), p.775, Jun. 2, 2022; Four Years into Nicaragua's Human Rights Crisis, the IACHR Stresses Its Commitment To the Country, Inter-American Commission on Human Rights (IACHR), Apr. 18, 2022.

<sup>4</sup> Feinberg, Richard E., Nicaragua: Revolution and Restoration, Brookings Institution, p.2, Nov. 2018.

<sup>5</sup> Nicaraguan Vice-President Rosario Murillo, who is the wife of Nicaraguan President Daniel Ortega. Daniel Ortega has been president of Nicaragua since 2007, while Murillo was his running mate in the 2016 elections. See Feinberg, Richard E., Nicaragua: Revolution and Restoration, Brookings Institution, Nov. 2018.

<sup>6</sup> Somoza is a reference to the “autocratic family dynasty” which governed Nicaragua from 1934-1979. See Feinberg, Richard E., Nicaragua: Revolution and Restoration, Brookings Institution, p.3, Nov. 2018.





**U.S. Citizenship  
and Immigration  
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**Refugee, Asylum and  
Int'l Operations  
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unions announced their support for the aggrieved students. Massive marches and three one-day general strikes supported by business brought the urban economy to a momentary halt.<sup>7</sup>

Moreover, in an October 2021 report, the IACHR cited a wildfire in a nature reserve in late March and early April 2018—which led to protests regarding the state’s response to the wildfire and subsequent state repression of said protests—as “immediate background to the April protests.”<sup>8</sup> Other factors identified by the Brookings Institution as “drivers of rebellion” in Nicaragua included: “closing off channels of dissent”; fears of an Ortega-Murillo family dynasty; “brazen displays of official corruption”; “politicization of the public sector”; plans to construct an inter-oceanic canal (at the perceived expense of national sovereignty); frustrations of university students; “imposition of hierarchical control” within the Sandinista National Liberation Front (FSLN), the ruling political party; and the deterioration of relations between the regime and “key interest groups.”<sup>9</sup>

In its annual report covering 2021, the IACHR commented on the “progressive deterioration of the human rights situation and rule of law in Nicaragua,” and noted that the country’s “political, social, and human rights crisis” that began in April 2018:

three years later continues to spread even further owing to, among other factors, the de facto installation of a status of exception in the country, as well as the long standing undermining of democratic institutions because of the concentration of power in the executive branch, the absence of independence of the judiciary and the Attorney General’s Office, and the perception that the National Assembly is operating in full alignment with the executive branch. At the same time, the Nicaraguan population continues to be impacted by the installation of a police state which makes it possible for coordination between the National Police and groups of government supporters to assault, patrol, threaten, and harass any person who is identified as an opponent of the current government.

As a result of these factors, more than three years after the beginning of social protests in April 18, 2018, the IACHR observes that there still is a context of widespread impunity with respect to the gross human rights violations committed in the framework of the state repression, which has led to the death of 355 persons, more than 2,000 persons injured, more than 1,614 persons detained, hundreds of health professionals arbitrarily dismissed, and more than 150 university students unjustifiably expelled. [...]

In view of the continuation of the serious human rights crisis and the drastic deterioration of the country’s democratic institutions, the general elections held on

<sup>7</sup> Feinberg, Richard E., *Nicaragua: Revolution and Restoration*, Brookings Institution, p.7, Nov. 2018.

<sup>8</sup> *Nicaragua: Concentration of Power and the Undermining of the Rule of Law*, Inter-American Commission on Human Rights (IACHR), p.18, Oct. 25, 2021.

<sup>9</sup> Feinberg, Richard E., *Nicaragua: Revolution and Restoration*, Brookings Institution, p.7-9, Nov. 2018.



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

November 7, 2021 represented for Nicaraguan society the possibility of beginning a transitional period to restore the rule of law and democracy, as well as guaranteeing the right to memory, truth, and access to justice for the victims of state violence. Since early 2021, however, the IACHR has observed the escalation of a new stage of repression, characterized by a series of state actions leading to the elimination of the opposition's participation in the elections even before they were held. In particular, through the Special Monitoring Mechanism for Nicaragua (MESENI), the IACHR received distressing information about the removal of the legal status of political parties of the opposition, the detention and criminalization of leaders, including persons who had presented their preliminary candidacy to run for president, the enactment and enforcement of criminal laws with ambiguous wording that arbitrarily restricts the political rights of the Nicaraguan population, and amendments to the electoral law contrary to international human rights law.<sup>10</sup>

In December 2021, the IACHR expressed its concern "about the increasing number of people who have been forced to flee Nicaragua and to request international protection in the context of the ongoing serious human rights crisis in the country."<sup>11</sup> The organization reported that:

In 2021, the IACHR has heard reports of an increase in the number of Nicaraguans who have been forcibly displaced due to more intense repression and to the atmosphere of fear and persecution that persists in Nicaragua against all individuals who are considered government critics. [...]

Based on statements and other information received by the Special Monitoring Mechanism for Nicaragua (MESENI), the IACHR notes that, in many cases, the people who have been forcibly displaced had previously been victims of direct threats of arrest by officers of the National Police or government supporters. In many other cases, the affected individuals said they lived in a climate of fear and unease due to the constant presence of National Police officers close to their homes and to the fact that they had been followed and subjected to surveillance or had even been denied the option of moving to other departments.

Some of the main groups who have fled Nicaragua are human rights defenders and journalists; students who had taken part in demonstrations in April 2018; legal representatives of individuals who were deprived of liberty; healthcare workers who opposed government policies; people who had been released from detention based on the 2019 Amnesty Act; relatives of individuals who had been detained or murdered in the context of the crisis; and, in general, political and social movement leaders who had been subjected to threats given the persistence of arbitrary arrests in the country.

<sup>10</sup> Annual Report 2021 - Chapter IV.B - Nicaragua, Inter-American Commission on Human Rights (IACHR), p.775, Jun. 2, 2022.

<sup>11</sup> IACHR Calls for International Solidarity. Urges States to Protect the People Who Have Been Forced to Flee from Nicaragua, Inter-American Commission on Human Rights (IACHR), Dec. 20, 2021.



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

Individuals who are identified as government critics and seek to leave Nicaragua are sometimes interrogated and subjected to reviews of their personal documents, computers, and cell phones by National Police officers at the airport. According to the statements the IACHR has had access to, these actions allegedly seek to prevent the relevant individuals from exposing on an international scale the situation of human rights in Nicaragua. These practices allegedly encourage people to attempt to flee through irregular routes or "blind spots."<sup>12</sup>

Furthermore, the United Nations High Commissioner for Refugees (UNHCR) has reported that:

Political turmoil in Nicaragua since April 2018 meanwhile, has led some 200,000 people to flee persecution and human rights abuses, the vast majority – 150,000 — into neighbouring Costa Rica. More Nicaraguans have sought protection in Costa Rica since 2018 than people fleeing Central America's civil wars in the 1980s.<sup>13</sup>

In reference to recent trends in homicides and violence, according to InSight Crime, Nicaragua's homicide rate<sup>14</sup> in 2017 was "7 per 100,000 people, with 431 total murders, continuing a positive trend of lower violence seen over several years."<sup>15</sup> While it was unable to calculate a homicide rate for 2018 due to a lack of complete statistics, InSight Crime nevertheless reported that "levels of violence soared [...] due to the brutal repression of civilian protesters by the regime of President Daniel Ortega."<sup>16</sup> In regards to 2019, InSight Crime reported that:

After spiking in 2018 due to nation-wide unrest and a brutal crackdown on opposition protesters by President Daniel Ortega, levels of recorded violence in 2019 appear to have dropped back to earlier levels seen in 2017 and 2016. The 488 homicides tallied in 2019 represented a murder rate of 7.5 per 100,000 citizens.

While the turmoil is still ongoing, state security forces and pro-government paramilitary groups do not appear to have violently cracked down on and disappeared hundreds of students, activists and oppositions leaders in 2019 with as much frequency as they did in 2018. That said, scores of opposition members

<sup>12</sup> IACHR Calls for International Solidarity, Urges States to Protect the People Who Have Been Forced to Flee from Nicaragua, Inter-American Commission on Human Rights (IACHR), Dec. 20, 2021.

<sup>13</sup> Displacement in Central America, United Nations High Commissioner for Refugees (UNHCR), last visited Jun. 14, 2022, <https://web.archive.org/web/20220614224244/https://www.unhcr.org/en-us/displacement-in-central-america.html>

<sup>14</sup> According to a 2019 global study on homicide by the United Nations Office on Drugs and Crime (UNODC), "A homicide rate of 10 per 100,000 population has been termed 'epidemic' in the literature, although it is questionable whether this medical metaphor is appropriate in such a context and why the threshold for calling it 'epidemic' is set exactly at this rate. This designation is widely used by the media, and is often ascribed to the United Nations, but its exact origin remains unclear. A search of the literature uncovered several reports that refer to the term as originating from the World Health Organization." See Global Study on Homicide 2019, United Nations Office on Drugs and Crime (UNODC), p.18, 2019.

<sup>15</sup> Dalby, Chris, and Carranza, Camilo, InSight Crime's 2018 Homicide Round-Up, InSight Crime, Jan. 22, 2019.

<sup>16</sup> Dalby, Chris, and Carranza, Camilo, InSight Crime's 2018 Homicide Round-Up, InSight Crime, Jan. 22, 2019.



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

continue to be detained arbitrarily on trumped up charges, and the country's security outlook remains uncertain at best.<sup>17</sup>

For 2020, InSight Crime noted that while "Official homicide data is tough to come by in Nicaragua," it estimated the country's homicide rate "to be at least 4.4 per 100,000 based on population estimates."<sup>18</sup> When discussing homicides in 2021, the organization reported that:

According to security expert Elvira Cuadra, who tracks murders in the country through media reports and other independent sources, 189 people were killed during the first six months of last year, putting the country on pace for a homicide rate of 5.7 per 100,00 in 2021, according to InSight Crime's calculations.

Between January and June, Cuadra recorded 153 murder cases, a jump from 104 during the same period in 2020.<sup>19</sup>

Moreover, InSight Crime also commented on political violence and repression in its analysis of homicides in Nicaragua during 2021:

Outright violence where citizens were harmed did not appear to occur ahead of Ortega securing his fourth consecutive term. However, Urnas Abiertas, an election observation group, recorded more than 1,600 instances of political violence. This included police and paramilitary groups holding people hostage in targeted areas for hours or even days, during which they were harassed and threatened.

Ortega also harnessed the justice system to crack down on opponents. According to Human Rights Watch, authorities detained seven presidential candidates and at least 32 government critics, some of whom were subjected to abuse that included "daily interrogations, prolonged solitary confinement, and insufficient food."<sup>20</sup>

***Environmental Concerns***

The U.S. Agency for International Development (USAID) reported in September 2021 that Nicaragua:

is prone to numerous environmental shocks, including droughts, flooding, and landslides. The country also regularly experiences tropical storms during the June–November Atlantic hurricane season, which can result in flooding, damage structures, destroy crops, and disrupt livelihoods. Nicaragua's western coastline is also susceptible to recurrent periods of drought, followed by heavy, irregular rains, which can trigger flooding and landslides. These recurring natural disasters—

<sup>17</sup> Asmann, Parker, and O'Reilly, Eimhin, *InSight Crime's 2019 Homicide Round-Up*, InSight Crime, Jan. 28, 2020.

<sup>18</sup> Asmann, Parker, and Jones, Katie, *InSight Crime's 2020 Homicide Round-Up*, InSight Crime, Jan. 29, 2021.

<sup>19</sup> *InSight Crime's 2021 Homicide Round-Up*, InSight Crime, Feb. 1, 2022.

<sup>20</sup> *InSight Crime's 2021 Homicide Round-Up*, InSight Crime, Feb. 1, 2022.



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

coupled with the economic effects of the coronavirus disease (COVID-19) pandemic and sociopolitical instability—regularly exacerbate food insecurity among vulnerable populations in Nicaragua.<sup>21</sup>

Similarly, in September 2021, the International Federation of Red Cross and Red Crescent Societies (IFRC) reported that:

In the last 20 years, Nicaragua has been hit by major, extreme weather events such as Hurricanes Mitch in 1998, Beta in 2005, Felix in 2007, and most recently by hurricanes Eta and Iota in November 2020, which hit the North Atlantic Autonomous Region (RAAN) 15 days apart with maximum intensity. The economic, social, housing, and infrastructure losses have been devastating for the region, as the two latter hurricanes combined affected 56 municipalities nationwide and put three million people at risk. [...]

According to the Global Climate Risk Index (Germanwatch, 2019), from 1998 to 2017 Nicaragua was ranked sixth among the top ten countries most exposed and vulnerable to extreme weather events. [...]

While Nicaragua is strategically located for the development of various socioeconomic sectors, geographically speaking it is highly vulnerable to a wide range of hazards (seismic, volcanic, climatic, hydro-meteorological).<sup>22</sup>

Moreover, the World Bank stated in November 2021 that Nicaragua “is classified as being at the highest risk level for climate-related and other natural disasters; it is in the high-risk group for earthquakes, floods, and epidemics and in the medium-risk group for drought and hurricanes.”<sup>23</sup> Nicaragua has 18 volcanoes (each with different levels of activity), with over 1.1 million people at risk of exposure to a possible volcanic eruption.<sup>24</sup>

According to a 2019 report published by the World Bank Group:

Hydrometeorological phenomena such as hurricanes, flooding, drought and landslides have significant influence on the population and economy of Nicaragua. Between 1994 and 2013, the average number of deaths due to hydrometeorological disasters was 160 per year, with average annual losses of 301.75 million dollars [...], which is equivalent to an average annual loss per unit of GDP of 1.71%

<sup>21</sup> Nicaragua Assistance Overview, U.S. Agency for International Development (USAID), p.1, Sep. 2021.

<sup>22</sup> Nicaragua: Preparatory Action for Disaster/Crisis - DREF Plan of Action, Operation N° MDRNI011, International Federation of Red Cross and Red Crescent Societies (IFRC), p.2, Sep. 3, 2021.

<sup>23</sup> Pooling Catastrophe Risk to Protect against Natural Hazards: Nicaragua's Experience in Disaster Risk Management and Finance, The World Bank, Nov. 1, 2021.

<sup>24</sup> Tórrez García, Cinthya, Más de un millón de nicaragüenses viven en riesgo por una posible erupción volcánica [More than a million Nicaraguans live at risk of a possible volcanic eruption], La Prensa (Ni.), Feb. 20, 2018.



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

In Nicaragua, extreme rainfall is the most common natural phenomenon, with the highest social impact. The greatest source of damage and loss of life is linked to hurricanes that generate storms that lead to flooding, erosion and landslides.<sup>25</sup>

In November 2020, Nicaragua was impacted by “two devastating hurricanes, Eta and Iota, category 4 and 5, respectively,” which “hit the country in quick succession.”<sup>26</sup> According to the IFRC, “Hurricane Eta, a category 4 storm, impacted the Northern Caribbean coast on 3 November, and Hurricane Iota, a category 5 storm, impacted the same area on 16 November and extended to the Pacific region, leaving severe damage in the region, including loss of lives.”<sup>27</sup> The “back-to-back major hurricanes affected 60 per cent of the national territory,”<sup>28</sup> while “Coastal areas such as the North Caribbean Coast Autonomous Region (RACCN), a rural area mostly inhabited by indigenous and Afro-descendant peoples, bore the brunt of the destruction.”<sup>29</sup> According to a plan of action developed by various United Nations agencies in coordination with the Nicaraguan government:

With torrential rains and winds upwards of 230 km/h, Eta and Iota triggered intense flooding and landslides which led to the destruction of homes as well as agriculture and fishery-based livelihoods. More than three million people were exposed to these devastating storms, with an estimated 1.8 million people affected.<sup>30</sup>

Damages from the hurricanes were estimated at “US\$738 million (6.2% of GDP).”<sup>31</sup> Furthermore, USAID reported in September 2021 that:

The storms limited access to safe drinking water and sanitation facilities for an estimated 500,000 people and left more than 730,000 people in need of humanitarian assistance, the GoN [Government of Nicaragua] and UN reported.

Populations in Nicaragua already faced constrained livelihood opportunities prior to Eta and Iota as a result of the country’s ongoing economic crisis and the socioeconomic impacts of the COVID-19 pandemic. The storms further reduced

<sup>25</sup> Hydrometeorological and Climate Services Modernisation Plan For Nicaragua, World Bank Group, p.2, Jan. 2019.

<sup>26</sup> Nicaragua Action Plan to focus on recovery efforts after hurricanes Eta and Iota, United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Mar. 17, 2021.

<sup>27</sup> Nicaragua: Hurricanes Eta & Iota - Emergency Appeal n° MDR43007, Operation Update no. 2, International Federation of Red Cross and Red Crescent Societies (IFRC), p. 2, Jan. 20, 2021.

<sup>28</sup> Plan of Action | Hurricanes Eta and Iota, United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) et. al, Feb. 22, 2021.

<sup>29</sup> Nicaragua Action Plan to focus on recovery efforts after hurricanes Eta and Iota, United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Mar. 17, 2021.

<sup>30</sup> Plan of Action | Hurricanes Eta and Iota, United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) et. al, Feb. 22, 2021.

<sup>31</sup> Plan of Action | Hurricanes Eta and Iota, United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) et. al, Feb. 22, 2021.





**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

livelihood opportunities and damaged staple crops, worsening food insecurity for vulnerable individuals.<sup>32</sup>

In addition to hurricanes, Nicaragua has also been impacted by other hydrometeorological events.<sup>33</sup> For instance, in mid-October 2018, a Nicaraguan media outlet reported that—during the first 18 days of October—heavy rains led to the deaths of 14 people, while 6,191 individuals were affected by flooding.<sup>34</sup> In October 2017, Nicaragua's Caribbean Coast was impacted by Tropical Depression Nate, which “caused heavy rain and floods mainly in the Northern Autonomous Caribbean Region and the Rivas, Jinotepe<sup>35</sup>, Leon, Chinandega, Matagalpa and Juigalpa<sup>36</sup> departments in the country's central Pacific region.”<sup>37</sup> The Nicaraguan government reported that 16 people were killed, 682 communities were affected in 14 departments, 5,952 homes were damaged, and 29,110 people were impacted.<sup>38</sup>

In addition, Nicaragua is “one of the countries in the Dry Corridor” of Central America.<sup>39</sup> According to *Reuters*, “Central America's ‘Dry Corridor’ - running through Guatemala, El Salvador, Honduras and Nicaragua - is particularly vulnerable to the El Nino phenomenon, a warming of the Pacific Ocean surface that typically occurs every few years, causing hot and drier conditions.”<sup>40</sup> The Dry Corridor “suffers from continuous droughts” due to El Niño.<sup>41</sup> A Nicaraguan media outlet reported in February 2018 that, per Nicaraguan government data, “A total of 596 communities”—around 300,000 people—“are at high risk from the threat of a drought” in Nicaragua.<sup>42</sup>

In a June 2019 article on drought in Nicaragua, *DW* reported that:

When El Nino hit from 2014 to 2016, drought laid waste to food production in the Dry Corridor. [...]

According to local NGO, the Humboldt Center, 90% of maize and 60% of bean crops in Nicaragua were lost in 2016. [...]

<sup>32</sup> Nicaragua Assistance Overview, U.S. Agency for International Development (USAID), p.1, Sep. 2021.

<sup>33</sup> Hydrometeorological and Climate Services Modernisation Plan For Nicaragua, World Bank Group, p.2, Jan. 2019.

<sup>34</sup> Velásquez, Uriel, Lluvias dejan 14 muertos en Nicaragua [Rains leave 14 dead in Nicaragua], *El Nuevo Diario* (Ni.), Oct. 19, 2018.

<sup>35</sup> Jinotepe is the capital of Carazo department.

<sup>36</sup> Juigalpa is the capital of Chontales department.

<sup>37</sup> Nicaragua floods: DREF final report (8 July 2018), International Federation of Red Cross and Red Crescent Societies (IFRC), p.1, Jul. 8, 2018.

<sup>38</sup> Nicaragua floods: DREF final report (8 July 2018), International Federation of Red Cross and Red Crescent Societies (IFRC), p.2, Jul. 8, 2018.

<sup>39</sup> A comprehensive action plan for the Dry Corridor in Nicaragua, Food and Agriculture Organization of the United Nations (FAO), Nov. 27, 2017.

<sup>40</sup> Moloney, Anastasia, In Honduras, years of drought pressure farmers to leave land, *Reuters*, Sep. 27, 2019.

<sup>41</sup> A comprehensive action plan for the Dry Corridor in Nicaragua, Food and Agriculture Organization of the United Nations (FAO), Nov. 27, 2017.

<sup>42</sup> Tórrez García, Cinthya, Trescientos mil nicaragüenses viven en riesgo ante sequía [Three hundred thousand Nicaraguans live at risk of drought], *La Prensa* (Ni.), Feb. 27, 2018.



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

"Because of climate change, the conditions for agricultural production in the Dry Corridor don't exist anymore," Victor Campos, director of the Humboldt Center, told DW. "That creates a food crisis, and if there isn't another kind of income available for families, it leads to famine." [...]

Tania Guillen, a Nicaraguan researcher at the Climate Service Center Germany, told DW that with small farmers losing crops, food insecurity in Nicaragua "could be a decisive factor to migrate to other countries in the region."<sup>43</sup>

In late July 2019, ACAPS reported that "[a]n El Niño phenomenon, although weak, has developed since February affecting several Central American countries, in particular Guatemala, Honduras, El Salvador and Nicaragua, known as the Dry Corridor."<sup>44</sup>

***Health Concerns***

Nicaragua recorded its first case of COVID-19 in March 2020.<sup>45</sup> In early June 2022, *Agencia EFE* reported that, according to Nicaragua's Ministry of Health, the country had registered "240 deaths from COVID-19 and 18,936 confirmed cases since the pandemic was detected in the country in March 2020."<sup>46</sup> Moreover, government officials also stated that 80% of the population over the age of 2 was fully vaccinated, while 92% of Nicaraguans had received at least one dose of the COVID vaccine.<sup>47</sup> Yet, when discussing COVID-19 cases and deaths, *Agencia EFE* also reported that:

The official data contrasts with that of the COVID-19 Citizen Observatory, a network of independent doctors that monitors the pandemic and that until the end of this past April reported 5,994 deaths from pneumonia and other symptoms related to the coronavirus, as well as 32,174 suspected cases of contagion.<sup>48</sup>

Furthermore, in its 2022 annual report on Nicaragua (covering the events of 2021), Human Rights Watch reported on the Nicaraguan government's response to the COVID-19 pandemic:

Denial, inaction, and opacity have characterized the government's response to the Covid-19 pandemic. The government took no emergency measures in response to

<sup>43</sup> Josefsen Hermann, Lise, Caught between floods and drought: Farmers in Nicaragua living in uncertainty, DW, Jun. 12, 2019.

<sup>44</sup> NICARAGUA: Dry spell in northern Nicaragua, ACAPS, p.1, Jul. 24, 2019.

<sup>45</sup> Nicaragua registers first case of coronavirus infection, Reuters, Mar. 18, 2020.

<sup>46</sup> Nicaragua registra 240 muertos y 18.936 casos de covid-19 desde marzo de 2020 [Nicaragua registers 240 deaths and 18,936 cases of COVID-19 since March 2020], *Agencia EFE*, Jun. 7, 2022.

<sup>47</sup> Nicaragua registra 240 muertos y 18.936 casos de covid-19 desde marzo de 2020 [Nicaragua registers 240 deaths and 18,936 cases of COVID-19 since March 2020], *Agencia EFE*, Jun. 7, 2022.

<sup>48</sup> Nicaragua registra 240 muertos y 18.936 casos de covid-19 desde marzo de 2020 [Nicaragua registers 240 deaths and 18,936 cases of COVID-19 since March 2020], *Agencia EFE*, Jun. 7, 2022.



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

the pandemic, kept schools open, and fired doctors critical of the government who disagreed with its management of the Covid-19 response.

While the government reported over 13,000 cases and more than 200 deaths, as of September 2021, the nongovernmental organization (NGO) Covid-19 Citizen Observatory registered almost twice as many suspected cases and 4,500 suspected deaths. The government has accused the organization and critical doctors of promoting “health terrorism.” The Inter-American Commission on Human Rights (IACHR) reported that “state agents” were persecuting and harassing members of the Observatory, as well as from the medical associations Nicaraguan Medical Unit (UMN) and Interdisciplinary Scientific Committee.

As of October 2021, just over 8 percent of the population was fully vaccinated.

During the 2018 crackdown, at least 405 doctors, nurses, and other health workers were fired from public hospitals, seemingly for providing care to protesters or criticizing the government.

No specific policies to diminish the negative economic impact of the pandemic were enacted.<sup>49</sup>

In 2019, Latin America experienced a “record year for dengue fever<sup>50</sup>,” with Nicaragua among the “hardest hit” countries in the region.<sup>51</sup> In early December 2019, *Voz de América* reported that Nicaragua was “one of the three countries in Latin America that reported the highest rate of dengue cases during 2019. To date, the disease has claimed the lives of 27 people, and the rates of risk have increased up to seven times according to experts.”<sup>52</sup> A Nicaraguan media outlet reported in mid-December 2019 that Nicaragua had registered over 178,000 suspected cases of dengue in 2019 (up to December 7).<sup>53</sup>

<sup>49</sup> *World Report 2022 - Nicaragua*, Human Rights Watch, Jan. 2022.

<sup>50</sup> According to the World Health Organization (WHO), “Dengue is a viral infection transmitted to humans through the bite of infected mosquitoes. [...] The virus responsible for causing dengue, is called dengue virus (DENV). [...] While many DENV infections produce only mild illness, DENV can cause an acute flu-like illness. Occasionally this develops into a potentially lethal complication, called severe dengue.” Severe dengue “is a leading cause of serious illness and death in some Asian and Latin American countries.” See *Dengue and severe dengue*, World Health Organization (WHO), Jan. 10, 2022.

<sup>51</sup> Huang, Pien, *Why Dengue Fever Cases Are Hitting Record Highs In Latin America*, NPR, Dec. 17, 2019.

<sup>52</sup> *Nicaragüenses gastaron 50 millones de dólares para atender el dengue en 2019* [Nicaraguans spent 50 million dollars to treat dengue in 2019], *Voz de América*, Dec. 2, 2019.

<sup>53</sup> López B., Lidia, *Por qué este año hubo una epidemia de dengue en Nicaragua si el mosquito trasmisor siempre está presente* [Why there was a dengue epidemic in Nicaragua this year if the transmitting mosquito is always present], *La Prensa* (Ni.), Dec. 16, 2019.

of 157

AD388 B

**DEFENDANT'S  
EXHIBIT**

CASE  
NO. 6:23-cv-00007

EXHIBIT  
NO. 079

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

STATE OF TEXAS, *et al.*,

*Plaintiffs,*

vs.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, *et al.*,

*Defendants, and*

VALERIE LAVEUS, *et al.*,

*Intervenor Defendants.*



CIVIL ACTION No.  
6:23-CV-00007

JUDGE DREW B. TIPTON

**INTERVENOR DEFENDANTS’  
TAB 79, ECF 175-14**

Case 6:23-cv-00007 Document 265-9 Filed 08/25/23 in TXSD Page 69 of 157



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

**Nicaragua: COI Update**

June 2022 – October 2022

Last updated: October 31, 2022

**EXHIBIT**

**13**

***Socio-Political & Human Rights Crisis***

In an early September 2022 report on the human rights situation in Nicaragua, the Office of the United Nations High Commissioner for Human Rights (OHCHR) reported that the “human rights situation in Nicaragua has progressively deteriorated since 2018.”<sup>1</sup> *The Associated Press* noted in August 2022 that political stability in Nicaragua “has never fully returned” since the outbreak of protests in 2018 and the subsequent “crackdown by security forces and allied civilian militias.”<sup>2</sup> *Al Jazeera* reported in August 2022 that—according to “rights observers”—Nicaraguan President Daniel Ortega “continues to crack down on freedom of expression and speech following massive anti-government protests that broke out in April 2018.”<sup>3</sup>

Human Rights Watch reported in July 2022 that “Since taking office in 2007, the Ortega administration has dismantled all institutional checks on presidential power, including the judiciary.”<sup>4</sup> In mid-June 2022, *The Associated Press* assessed that “With all government institutions firmly within Ortega’s grasp and the opposition exiled, jailed or in hiding, the 75-year-old leader eroded what hope remained the country could soon return to a democratic path.”<sup>5</sup>

According to OHCHR, the deterioration in Nicaragua’s human rights situation has been demonstrated by the:

lack of institutional and legislative reforms aimed at restoring the rule of law and the separation of powers, the isolation from the international community, as well as the severe restrictions on civic space, the harassment of critical voices and the situation of persons detained in the context of the crisis [...].<sup>6</sup>

In October 2022, *The Associated Press* reported that Ortega had:

stepped up repression since clearing the field of potential opposition candidates ahead of his re-election to a fourth consecutive term last November. In addition to jailing dozens of opposition figures, the government has closed more than 1,000

<sup>1</sup> Human rights situation in Nicaragua, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.2, Sep. 2, 2022.

<sup>2</sup> Selser, Gabriela, and Hernández, María Teresa, EXPLAINER: Tension between Nicaragua and the Catholic Church, *The Associated Press*, Aug. 14, 2022.

<sup>3</sup> Nicaraguan Catholics gather for mass after gov’t bans procession, *Al Jazeera*, Aug. 14, 2022.

<sup>4</sup> Nicaragua: Government Dismantles Civil Society, Human Rights Watch, Jul. 19, 2022.

<sup>5</sup> US sanctions 93 Nicaraguan officials for crackdown, *The Associated Press*, Jun. 13, 2022.

<sup>6</sup> Human rights situation in Nicaragua, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.16, Sep. 2, 2022.





**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

civil society groups, shuttered independent media outlets and most recently jailed a Roman Catholic bishop and other clergy.<sup>7</sup>

The Inter-American Commission on Human Rights (IACHR) reported in late September 2022 that “Restrictions on fundamental freedoms have reached a critical point in Nicaragua.”<sup>8</sup> Moreover, OHCHR reported that it had noted “a deterioration of the human rights situation” in 2022, “particularly regarding civil and political rights, in a context characterized by the absence of dialogue, the deepening of the political crisis, and the isolation of Nicaragua from the international community.”<sup>9</sup>

In regards to “civic space restrictions,” OHCHR reported that Nicaragua “has continued to restrict civic space, with a particular impact on the rights to freedom of association and expression.”<sup>10</sup> According to the IACHR, there is “no longer any space for critical voices” in Nicaragua, “as the Government’s censorship strategy has been steadily deployed against any person that questions it and against all available areas of democratic participation.”<sup>11</sup>

According to *The Associated Press*, “Since massive street protests erupted in April 2018 and were eventually violently put down by government forces, Ortega’s administration has pursued any organizations it views as a threat.”<sup>12</sup> Since November 2018, the Nicaraguan government has “shut down civil society organizations on the grounds that they had supported terrorist actions and/or breached administrative duties.”<sup>13</sup> Human Rights Watch has reported that the shutting down of non-governmental organizations in Nicaragua “is part of a much broader effort to silence civil society groups and independent media through a combination of repressive tactics that include abusive legislation, intimidation, harassment, arbitrary detention, and prosecution of human rights defenders and journalists.”<sup>14</sup> OHCHR reported in early September that, in 2022, the Nicaraguan government had:

cancelled the legal personality of 1,112 human rights, development and other organizations, professional associations, including medical associations, entities linked to the Catholic Church and others, totalling [*sic*] at least 1,178 since 2018.

<sup>7</sup> Selser, Gabriela, *Nicaragua's Ortega says US sanctions will make more migrants*, The Associated Press, Oct. 27, 2022.

<sup>8</sup> *In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms*, Inter-American Commission on Human Rights (IACHR), Sep. 28, 2022.

<sup>9</sup> *Human rights situation in Nicaragua*, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.2, Sep. 2, 2022.

<sup>10</sup> *Human rights situation in Nicaragua*, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.4, Sep. 2, 2022.

<sup>11</sup> *In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms*, Inter-American Commission on Human Rights (IACHR), Sep. 28, 2022.

<sup>12</sup> Selser, Gabriela, *Nicaragua newspaper says staff have fled the country*, The Associated Press, Jul. 21, 2022.

<sup>13</sup> *Human rights situation in Nicaragua*, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.9, Sep. 2, 2022.

<sup>14</sup> *Nicaragua: Government Dismantles Civil Society*, Human Rights Watch, Jul. 19, 2022.



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

In July, the Special Rapporteur on the rights to freedom of peaceful assembly and of association expressed concern about the cancellation of the legal personality of hundreds of organizations.

Twelve universities have also had their legal personality cancelled, affecting the right to education. This right was also impacted by other measures restricting university autonomy and academic freedom, such as the reform of the Law of Autonomy of Higher Education Institution. The reform subjects the approval of the academic programs of all universities to the authority of a central body.<sup>15</sup>

In late September, the IACHR reported that “more than 2000 organizations of civil society – linked to political parties, academic, and religious spaces – have been cancelled” since April 2018.<sup>16</sup>

OHCHR has also identified “a serious deterioration of freedom of expression” in Nicaragua since 2018.<sup>17</sup> Likewise, the IACHR reported in late September that:

Furthermore, attacks and unlawful interference with the freedom of the media is a serious trend that has increased in the last four years. Since then, at least 54 national media outlets have been closed, and the occupation and confiscation of the facilities of the media outlets *100% Noticias*, *Confidencial*, and *La Prensa* continues. The censorship strategy has also extended to the international press, creating a siege that hinders and prevents the circulation of relevant information about what is happening in the country: in recent years, the Government has prevented the entry of journalists from foreign media on at least seven occasions, and recently took *CNN en Español* off the air, without making public the reasons for the decision. In their onslaught against all forms of independent expression, the authorities have also banned religious processions; prevented academics and researchers from entering the country; pushed to censor and veto writers; expelled musicians from the country; and violently arrested priests and other critical religious leaders.<sup>18</sup>

In its September 2022 report on the human rights situation in Nicaragua, OHCHR reported that “enjoyment of freedom of expression” had deteriorated, and noted the following examples:

<sup>15</sup> Human rights situation in Nicaragua, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.4, Sep. 2, 2022.

<sup>16</sup> In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms, Inter-American Commission on Human Rights (IACHR), Sep. 28, 2022.

<sup>17</sup> Human rights situation in Nicaragua, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.9, Sep. 2, 2022.

<sup>18</sup> In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms, Inter-American Commission on Human Rights (IACHR), Sep. 28, 2022.



**U.S. Citizenship  
and Immigration  
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**Refugee, Asylum and  
Int'l Operations  
Research Division**

In July, staff of *La Prensa* left the country alleging the constant police siege against them<sup>19</sup>, joining the 120 other journalists who are in exile. In addition, three journalists were sentenced to up to 13 years in prison for the crimes of spreading fake news and undermining national integrity. The Government has also censored musical artists, preventing them from entering Nicaragua or detaining and then expelling them from the country, despite their Nicaraguan nationality. Between May and August, the authorities ceased the operations of 12 radio and television media outlets of the Catholic Church, especially in Matagalpa, arguing that they did not have operating permits. This was objected to by representatives of the affected media organizations. At least five nondenominational media were also forced to cease operations, allegedly due to non-compliance with the sector's regulations.<sup>20</sup>

As of September 2018, police in Nicaragua have “prohibited demonstrations and required applications to authorize public rallies.”<sup>21</sup> In its early September report, OHCHR noted that “Communications and requests for demonstrations were automatically rejected or unacknowledged to those who were perceived as opponents by the police. Any unauthorized protests, or attempts to carry them out, were immediately dispelled or prevented.”<sup>22</sup> OHCHR also reported that “antigovernment demonstrations and those demanding the release of the detainees continued to be repressed with excessive use of force by the police, or attacked by pro-government elements with the tolerance of the security force.”<sup>23</sup>

In late September 2022, the IACHR mentioned the existence of “attacks, judicial persecution and activation of control and surveillance mechanisms against journalists, human rights defenders, civil society actors, academics, students, members of the Catholic Church, political parties and government opponents” in Nicaragua.<sup>24</sup> In a June 2022 submission to the UN Committee against Torture, the *Centro Nicaragüense de Derechos Humanos* (Nicaraguan Center for Human Rights – CENIDH) and the *Organización Mundial Contra la Tortura* (World Organisation Against Torture – OMCT) reported that Nicaragua had “implemented a policy of mass and/or selective detention, as a deterrent to protests and any form of opposition; these detentions are characterized by the arbitrariness, and the systematic and widespread practice of torture and

<sup>19</sup> For additional information on the staff of *La Prensa* fleeing the country, see Selser, Gabriela, Nicaragua newspaper says staff have fled the country, The Associated Press, Jul. 21, 2022.

<sup>20</sup> Human rights situation in Nicaragua, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.5, Sep. 2, 2022.

<sup>21</sup> Human rights situation in Nicaragua, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.9, Sep. 2, 2022.

<sup>22</sup> Human rights situation in Nicaragua, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.9, Sep. 2, 2022.

<sup>23</sup> Human rights situation in Nicaragua, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.8, Sep. 2, 2022.

<sup>24</sup> In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms, Inter-American Commission on Human Rights (IACHR), Sep. 28, 2022.



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

other cruel, inhuman, and degrading treatment.”<sup>25</sup> The IACHR reported in late September that there were over 200 political prisoners in Nicaragua, “many of whom are held in unhealthy conditions, without access to adequate medical care, subjected to solitary confinement regimes, and prevented from receiving visits from their families, among other cruel, inhuman, and degrading treatment.”<sup>26</sup>

Moreover, in its early September report, OHCHR stated that it:

continued to document acts of harassment, especially against human rights defenders, journalists, clergymen, political opponents or persons considered as such, which have consisted mainly of constant and intimidating police presence in front of their homes or workplaces, affecting their privacy and activities, permanent monitoring, selective detention of vehicles, photographing and requiring documents from their occupants, and fencing off access roads to the facilities of organizations considered critical of the Government. Officials and citizens related to the Sandinista National Liberation Front also allegedly participated in these acts of harassment, intimidating individuals for allegedly using social networks against the Government.<sup>27</sup>

In mid-August, the IACHR condemned the “escalating repression against members of the Roman Catholic Church in Nicaragua” in response to the arbitrary arrest of a bishop and seven clerics in Matagalpa.<sup>28</sup> The IACHR stated that these arbitrary arrests occurred in a context of:

systematic persecution, criminalization, harassment, police hounding, stigmatizing comments by State authorities, and, more generally, acts of repression targeting members of the Roman Catholic Church in Nicaragua, due to its mediation efforts in the national talks of 2018 and its critical position to denounce human rights violations committed in the context of Nicaragua’s ongoing crisis.<sup>29</sup>

Additional incidents highlighted by the IACHR which occurred in August 2022 include: a Catholic priest allegedly being forced to go into exile; threats against priests by police officers; the banning of scheduled religious processions in Managua by the police; police officers

<sup>25</sup> Informe sobre el estado de cumplimiento de las obligaciones bajo la Convención contra la Tortura – Estado a evaluar: Nicaragua [Report on the status of compliance with the obligations under the Convention against Torture – State to be evaluated: Nicaragua], Centro Nicaragüense de Derechos Humanos (CENIDH) and Organización Mundial Contra la Tortura (OMCT), p.2, Jun. 2022.

<sup>26</sup> In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms, Inter-American Commission on Human Rights (IACHR), Sep. 28, 2022.

<sup>27</sup> Human rights situation in Nicaragua, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.5, Sep. 2, 2022.

<sup>28</sup> IACHR Condemns Repression and Arrests of Members of Roman Catholic Church in Nicaragua, Inter-American Commission on Human Rights (IACHR), Aug. 19, 2022.

<sup>29</sup> IACHR Condemns Repression and Arrests of Members of Roman Catholic Church in Nicaragua, Inter-American Commission on Human Rights (IACHR), Aug. 19, 2022.

Case 6:23-cv-00007 Document 265-9 Filed 08/25/23 in TXSD Page 74 of 157



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

allegedly preventing people from accessing churches to attend mass in certain communities; and a police raid on a chapel to “seize radio and TV broadcasting equipment.”<sup>30</sup>

According to OHCHR, Nicaraguan authorities “continued to make stigmatizing statements and hate speech against their critics and opponents” in 2021 and 2022.<sup>31</sup> OHCHR also reported in early September that:

Other violations of the rights of persons perceived to be opponents of the Government have consisted of depriving them of the right to leave the country, by withholding their passports by immigration officials. In three other cases documented by OHCHR, consular officials abroad demanded that exiled activists return to Nicaragua to renew their passports, at the express instruction of the capital. The Office has also documented four cases in which Nicaraguan citizens were arbitrarily prevented from entering or returning to their own country.<sup>32</sup>

In early October 2022, *The Associated Press* reported that “Ortega’s government has stepped up its persecution of political opponents. Apparently no longer satisfied by driving them into exile, it is now pursuing their relatives criminally.”<sup>33</sup> The media outlet also reported that “Human rights organizations have accused the government of making relatives ‘hostages.’”<sup>34</sup>

In early July 2022, *The Associated Press* reported that Nicaraguan police had “taken over the city halls of five municipalities that had been in the hands of an opposition party.”<sup>35</sup> Citizens for Freedom—“a political party disallowed by the Nicaraguan government before presidential elections last year”—had “won each of those town halls in the 2017 elections.”<sup>36</sup> The media outlet reported at the time that “Of Nicaragua’s 153 municipalities, Ortega’s Sandinista Front now controls 140. Two allied parties control the other 13.”<sup>37</sup> Nicaragua is scheduled to hold local elections in November 2022.<sup>38</sup>

In mid-June 2022, UN High Commissioner for Human Rights Michelle Bachelet stated that the “sociopolitical, economic and human rights crises we are witnessing in Nicaragua are driving thousands of people from the safety of their homes. The number of Nicaraguans leaving the

<sup>30</sup> IACHR Condemns Repression and Arrests of Members of Roman Catholic Church in Nicaragua, Inter-American Commission on Human Rights (IACHR), Aug. 19, 2022.

<sup>31</sup> Human rights situation in Nicaragua, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.10, Sep. 2, 2022.

<sup>32</sup> Human rights situation in Nicaragua, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.5-6, Sep. 2, 2022.

<sup>33</sup> Selser, Gabriela, Nicaragua charging exiled opponents’ relatives, *The Associated Press*, Oct. 5, 2022.

<sup>34</sup> Selser, Gabriela, Nicaragua charging exiled opponents’ relatives, *The Associated Press*, Oct. 5, 2022.

<sup>35</sup> Nicaragua government takes over five opposition-held towns, *The Associated Press*, Jul. 4, 2022.

<sup>36</sup> Nicaragua government takes over five opposition-held towns, *The Associated Press*, Jul. 4, 2022.

<sup>37</sup> Nicaragua government takes over five opposition-held towns, *The Associated Press*, Jul. 4, 2022.

<sup>38</sup> Selser, Gabriela, Concern that Nicaragua repression could be “model” in region, *The Associated Press*, Aug. 4, 2022.





**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

country is growing in unprecedented numbers, even higher than in the 1980s.”<sup>39</sup> In late October 2022, *The Associated Press* reported that:

Since widespread social protests broke out in April 2018, most fleeing Nicaraguans headed to neighboring Costa Rica. But with that country’s overwhelmed asylum system and struggling economy more have instead migrated to the United States. For the fiscal year that ended in September, U.S. border agents encountered Nicaraguans nearly 164,000 times at the southwest border — more than triple the level for the previous year.<sup>40</sup>

Similarly, OHCHR reported in early September that there had been “an increase in the number of people leaving Nicaragua for the United States, from 5,450 people intercepted at the border in all of 2020, to 84,055 in the first six months of 2022.”<sup>41</sup> OHCHR identified “Restrictions on civic space and persecution of perceived opponents, in addition to the worsening socio-economic situation,” as factors leading to this increase.<sup>42</sup>

In early September 2022, *The Associated Press* reported that since the summer of 2021, “Nicaraguans have been seeking asylum in Costa Rica at the highest levels since Nicaragua’s political crisis exploded in April 2018.”<sup>43</sup> The media outlet noted that, of the more than “200,000 pending applications and another 50,000 people waiting for their appointment to make a formal application” to seek asylum in Costa Rica, “Nicaraguans account for nearly nine out of 10 applicants.”<sup>44</sup> Similarly, in mid-June 2022, *Al Jazeera* reported that UN High Commissioner for Human Rights Michelle Bachelet “said that over the last eight months ‘the number of Nicaraguan refugees and asylum seekers in Costa Rica has doubled, reaching a total of 150,000 new applicants since 2018.’”<sup>45</sup>

In late October 2022, the Biden administration targeted Nicaragua’s gold industry—“one of its biggest sources of revenue”—via an executive order and sanctions which “all but makes it illegal for Americans to do business with Nicaragua’s gold industry.”<sup>46</sup> According to *The Associated Press*, the executive order “also paves the way for the U.S. to restrict investment and trade with Nicaragua — a move recalling the punishing embargo imposed by the U.S. in the 1980s during

<sup>39</sup> UN rights chief warns of ‘unprecedented’ exodus from Nicaragua, *Al Jazeera*, Jun. 16, 2022.

<sup>40</sup> Selser, Gabriela, *Nicaragua’s Ortega says US sanctions will make more migrants*, *The Associated Press*, Oct. 27, 2022.

<sup>41</sup> *Human rights situation in Nicaragua*, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.6, Sep. 2, 2022.

<sup>42</sup> *Human rights situation in Nicaragua*, Office of the United Nations High Commissioner for Human Rights (OHCHR), p.6, Sep. 2, 2022.

<sup>43</sup> Castillo, Moises, and Sherman, Christopher, *Fleeing Nicaraguans strain Costa Rica’s asylum system*, *The Associated Press*, Sep. 2, 2022.

<sup>44</sup> Castillo, Moises, and Sherman, Christopher, *Fleeing Nicaraguans strain Costa Rica’s asylum system*, *The Associated Press*, Sep. 2, 2022.

<sup>45</sup> UN rights chief warns of ‘unprecedented’ exodus from Nicaragua, *Al Jazeera*, Jun. 16, 2022.

<sup>46</sup> Goodman, Joshua, and Sherman, Christopher, *Biden targets Nicaragua’s gold in new move against Ortega*, *The Associated Press*, Oct. 24, 2022.





**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

Ortega's first stint as president following the country's bloody civil war."<sup>47</sup> Furthermore, the media outlet reported that the U.S. government also froze the assets of one of Ortega's close advisors, and will revoke the visas "of more than 500 Nicaraguan individuals and their family members who either work for the Ortega government or help formulate, implement and benefit from policies that undermine democracy in the country."<sup>48</sup> Previously, the Biden administration had "sanctioned the state-owned mining company," and "reallocated the country's sugar quota, taking away a valuable U.S. subsidy worth millions of dollars every year."<sup>49</sup> In mid-June 2022, *The Associated Press* reported on both recent and prior examples of visa restrictions and sanctions imposed by the United States against Nicaraguan officials:

The U.S. State Department imposed visa restrictions Monday on 93 more Nicaraguan officials for their role in supporting the regime of President Daniel Ortega. [...]

The State Department announced it had pulled the visas of judges who convicted the opposition leaders, as well as legislators who had cooperated in banning NGOs and civic groups. [...]

The State Department had previously imposed visa restrictions on 116 individuals linked to the Ortega regime, "including mayors, prosecutors, university administrators, as well as police, prison, and military officials."

In recent months, the Treasury Department has frozen the U.S. assets of the defense minister and other officials in the army, telecom and mining sectors. As with dozens of Nicaraguan officials already under sanctions, U.S. citizens were prohibited from having dealings with them.<sup>50</sup>

### ***Environmental Concerns***

Nicaragua is "vulnerable to recurrent natural hazards."<sup>51</sup> As the International Federation of Red Cross and Red Crescent Societies (IFRC) noted in an early October 2022 report:

According to the Global Climate Risk Index, from 1998 to 2017, Nicaragua was ranked sixth among the top ten countries most exposed and vulnerable to extreme weather events. Due to its geographical position, Nicaragua is exposed to the recurrent impact of multiple natural phenomena such as earthquakes, volcanic eruptions, tsunamis, floods, landslides, droughts, and tropical cyclones.

<sup>47</sup> Goodman, Joshua, and Sherman, Christopher, Biden targets Nicaragua's gold in new move against Ortega, The Associated Press, Oct. 24, 2022.

<sup>48</sup> Goodman, Joshua, and Sherman, Christopher, Biden targets Nicaragua's gold in new move against Ortega, The Associated Press, Oct. 24, 2022.

<sup>49</sup> Goodman, Joshua, and Sherman, Christopher, Biden targets Nicaragua's gold in new move against Ortega, The Associated Press, Oct. 24, 2022.

<sup>50</sup> US sanctions 93 Nicaraguan officials for crackdown, The Associated Press, Jun. 13, 2022.

<sup>51</sup> WFP Nicaragua Country Brief – August 2022, World Food Programme (WFP), p.1, Sep. 23, 2022.



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

In the last 20 years, Nicaragua has been hit by major extreme weather events such as Hurricanes Mitch in 1998, Beta in 2005, Felix in 2007, and most recently by hurricanes Eta and Iota in November 2020, which hit the North Atlantic Autonomous Region (RAAN) 15 days apart with maximum intensity. The economic, social, housing, and infrastructure losses caused by these two last hurricanes have devastated the region. According to the National System for Disaster Prevention, Mitigation and Response (SINAPRED by its Spanish acronym), these hurricanes combined affected 56 municipalities nationwide and put three million people at risk.<sup>52</sup>

On October 9, 2022, Hurricane Julia “hit Nicaragua’s central Caribbean coast and dumped torrential rains across Central America before reemerging over the Pacific as a tropical storm.”<sup>53</sup> The storm “made landfall near Bluefields, Nicaragua, as a category 1 hurricane. It remained at hurricane strength for the next eight hours, while moving across Nicaragua and was then downgraded to a tropical storm, continuing to cross Nicaragua” before moving offshore into the Pacific Ocean.<sup>54</sup> On October 10, *Reuters* discussed the impact of the storm in Nicaragua:

Tropical storm Julia emerged over the Eastern Pacific on Sunday evening after pummeling [*sic*] Nicaragua with rain and winds that damaged hundreds of homes but left no reported casualties in that country, according to government officials. [...]

About one million residents of Nicaragua’s coastal region lost power and internet due to fallen lines as well as a decision by the government to cut electricity for safety reasons, said Vice President Rosario Murillo, according to local media.

The Nicaraguan National Disaster System said in a tweet on Sunday that the entire country was under “red alert,” after heavy rains caused multiple rivers to flood.

Guillermo Gonzalez, director of Nicaragua’s disaster system, told a press conference that Julia had not caused any fatalities in the country but that more than 13,000 families had been evacuated, more than 800 houses had been flooded and many roofs had been damaged.<sup>55</sup>

On July 1, 2022, Tropical Storm Bonnie “hit the Caribbean coast of Nicaragua near the border with Costa Rica.”<sup>56</sup> The storm “caused flash flooding, overflow in rivers and landslides in the

<sup>52</sup> Nicaragua: Preparatory Action for Tropical Storms - Operation Update No. 1, DREF N° MDRN1012, International Federation of Red Cross and Red Crescent Societies (IFRC), p.2-3, Oct. 3, 2022.

<sup>53</sup> Hurricane Julia hits Nicaragua with torrential rainfall, The Associated Press, Oct. 9, 2022.

<sup>54</sup> Final Event Briefing - Wind and Storm Surge - TC Julia - Nicaragua - October 18 2022, The Caribbean Catastrophe Risk Insurance Facility (CCRIF SPC), p.2, Oct. 18, 2022.

<sup>55</sup> Tropical Storm Julia emerges over Pacific after crossing Nicaragua, Reuters, Oct. 10, 2022.

<sup>56</sup> Tropical Storm Bonnie hits Nicaragua’s Caribbean coast, The Associated Press, Jul. 1, 2022.



**U.S. Citizenship  
and Immigration  
Services**

**Refugee, Asylum and  
Int'l Operations  
Research Division**

North and South Caribbean Coast,”<sup>57</sup> and “affected 21 municipalities, flooding 300 homes, ripping off the roofs of 123 homes, and destroying 3 homes.”<sup>58</sup> At least 3,000 people were evacuated,<sup>59</sup> and “Tens of thousands of people across Nicaragua were left without power and more than 10,000 homes had no water.”<sup>60</sup> In addition, 12 people were injured,<sup>61</sup> and four people were killed when they were “swept away by rivers which had been turned into raging torrents by the heavy rains.”<sup>62</sup>

<sup>57</sup> WFP Nicaragua Country Brief – July 2022, World Food Programme (WFP), p.1, Aug. 26, 2022.

<sup>58</sup> Natural Hazards Monitoring - 5 August 2022, Pan American Health Organization (PAHO), Aug. 5, 2022.

<sup>59</sup> Nicaragua - Floods (PAHO, SINAPRED, INETER) (ECHO Daily Flash of 06 July 2022), European Commission’s Directorate-General for European Civil Protection and Humanitarian Aid Operations (ECHO), Jul. 6, 2022.

<sup>60</sup> Buschschlüter, Vanessa, Storm Bonnie leaves deadly trail in Central America, BBC, Jul. 4, 2022.

<sup>61</sup> Nicaragua - Floods (PAHO, SINAPRED, INETER) (ECHO Daily Flash of 06 July 2022), European Commission’s Directorate-General for European Civil Protection and Humanitarian Aid Operations (ECHO), Jul. 6, 2022.

<sup>62</sup> Buschschlüter, Vanessa, Storm Bonnie leaves deadly trail in Central America, BBC, Jul. 4, 2022.

157  
**DEFENDANT'S  
EXHIBIT**  
CASE  
NO. 6-23-CV-00007  
EXHIBIT  
NO. 080

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

STATE OF TEXAS, *et al.*,

*Plaintiffs,*

vs.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, *et al.*,

*Defendants, and*

VALERIE LAVEUS, *et al.*,

*Intervenor Defendants.*

[illegible]

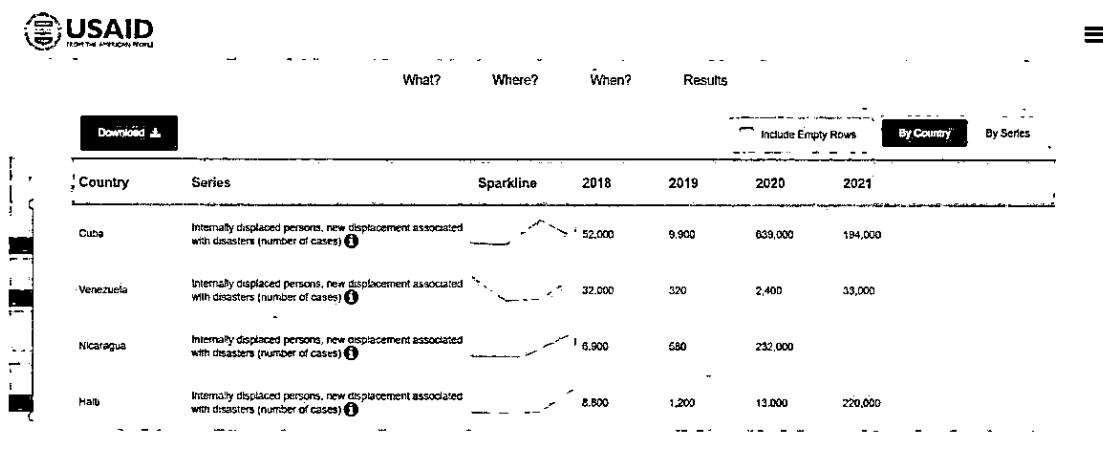
CIVIL ACTION No.  
6:23-CV-00007

JUDGE DREW B. TIPTON

**INTERVENOR DEFENDANTS’  
TAB 80, ECF 175-15**

## CHNV DISPLACEMENT DATA (2018 -2021)

**EXHIBIT**  
**14**

Figure 1. USAID Data Library Query: IDPs (2018-2021)<sup>1</sup>

## Cuba

## Displacement to other countries

- 2018: 32,091 displaced<sup>2</sup>  
Top Destinations: 22% Brazil (7,168), 19.3 % Uruguay (6,198), 10.3 % Chile (3,307), 9.1% Peru (2,930)<sup>3</sup>
- 2019: 62,600 displaced<sup>4</sup>  
Top Destinations: 23.6 % Brazil (14,798), 19.8% Uruguay (12,396), 12.2% United States (7,664), 11.3% Mexico (7,071).<sup>5</sup>
- 2020: 71,100 displaced<sup>6</sup>  
Top Destinations: 22.1% Brazil (15,751), 17.3% United States (12,342), 14.5 % Mexico (10,325) 12.8% Uruguay (9,135).<sup>7</sup>
- 2021: 83,100 displaced<sup>8</sup>  
Top Destinations: 32.5% Mexico (27,047), 25% United States (20,729), 19.3 % Brazil (16,061), 12.4% Uruguay (10,341).<sup>9</sup>

<sup>1</sup> 'New Displacement' refers to the number of new cases or incidents of displacement recorded over the specified year, rather than the number of people displaced. This is done because people may have been displaced more than once. See [IDEA: QUERY \(usaid.gov\)](#)

<sup>2</sup> UNHCR: Global Trends 2018.

<sup>3</sup> [OCHA Cuba - Data on forcibly displaced populations and stateless persons](#)

<sup>4</sup> [Cuba - Data on forcibly displaced populations and stateless persons](#)

<sup>5</sup> [OCHA Cuba - Data on forcibly displaced populations and stateless persons](#)

<sup>6</sup> [Cuba - Data on forcibly displaced populations and stateless persons](#)

<sup>7</sup> [OCHA Cuba - Data on forcibly displaced populations and stateless persons](#)

<sup>8</sup> [Cuba - Data on forcibly displaced populations and stateless persons](#)

<sup>9</sup> [OCHA Cuba - Data on forcibly displaced populations and stateless persons](#)

**CHNV DISPLACEMENT DATA (2018 -2021)****U.S. Population**

- Based on 2021 American Community Survey Data, there are approximately 2,400,152 people of Cuban ancestry residing in the United States.<sup>10</sup> This population primarily resides in Florida.
  - Florida (1,541,559)
    - Within this population, 565,059 individuals are native, and 976,500 are foreign born.
  - Texas (123,565)
  - California (103,500)
  - New Jersey (94,260)
  - New York (83,771).<sup>11</sup>
- In FY 2020, 31,369 Cubans naturalized; a majority of these individuals reside in Florida.<sup>12</sup>
- As of August 2022, there are more than 500,000 Cubans who are lawful permanent residents.
  - More than 400,000 Cubans eligible to naturalize; they reside primarily in Florida.<sup>13</sup>

**Haiti****Internally Displaced Persons (IDPs)**

- According to UNHCR data, Haitian IDPs have increased over the past 3 years.
  - 2019: 2,100
  - 2020: 7,900
  - 2021: 17,000.<sup>14</sup>
- Due to continued violence 13,600 people displaced from Port-au-Prince Metropolitan area, increasing number of IDPs to an estimated 17,000 people from August 2020 to June 23, 2021.<sup>15</sup>
  - Bel'Air: 1,242
  - Tabarre Issa: 2,160
  - Toussaint Brave: 413
  - Carrefour (Sports Centre): 1,115
  - Delmas 2 (Salvation Army): 500
  - Delmas 2 (Ecole Komite): 1,000
  - Eglise St. Yves: 1,000
  - Delmas 103: 500
  - Saint Martin/Delmas 2: 4,000
  - Others: 5,110 (estimates within host families and other departments)<sup>16</sup>
- In the first two weeks of June 2021, approximately 10,000 people were internally displaced in Haiti.<sup>17</sup>

<sup>10</sup> [S0201: SELECTED POPULATION PROFILE... - Census Bureau Table](#)

<sup>11</sup> [S0201: SELECTED POPULATION PROFILE... - Census Bureau Table](#)

<sup>12</sup> U.S. Department of Homeland Security, Office of Immigration Statistics.

<sup>13</sup> USCIS Eligible to Naturalize Dashboard.

<sup>14</sup> United Nations High Commissioner for Refugees (UNHCR) (2019). UNHCR Statistical Online Population Database. [UNHCR Refugee Statistics](#)

<sup>15</sup> [OCHA Haiti: Displacements due to gang violence in Port au Prince Situation Report No.3, June 23, 2021; Refugees and internally displaced persons - The World Factbook \(cia.gov\)](#)

<sup>16</sup> [OCHA Haiti: Displacements due to gang violence in Port au Prince Situation Report No.3, June 23, 2021](#)

<sup>17</sup> [OCHA Haiti: Displacements due to gang violence in Port-au-Prince Situation Report No. 2, June 14, 2021](#)



**CHNV DISPLACEMENT DATA (2018 -2021)**

- 8,500 of these IDPs were women and children internally displaced due to gang violence.<sup>18</sup>
- August 14, 2021: 7.2 magnitude earthquake leads to 19,000 IDPs and 40,000 displaced persons.<sup>19</sup>
  - Conditions for Haitians who were displaced due to August 2021 earthquake as well as Haitians who were displaced due to gang-related violence in the Port-au-Prince Metropolitan area “have significantly deteriorated, especially for 6,830 households living in makeshift [IDP] sites [in Haiti].”<sup>20</sup>
- Gang violence has led to internal displacement of thousands of Haitian families who have left the Port-au-Prince metropolitan area (Bel-air, Bas-Delmas, Centre-Ville, Martissant, Cité Soleil, Croix-des-Bouquets and Tabarre) from the October 2020 to 2022.<sup>21</sup>
  - “Thousands of households, including children, have been forced to flee these areas for their safety, many are being accommodated in host families who themselves are having to stretch their means to support additional family, and others have had to move to provincial towns.”<sup>22</sup>
- April to May 2022: approximately 16,800 individuals internally displaced as violence from organized crime increased in Port-au-Prince and surrounding area.<sup>23</sup>
- May to June 2022: 1000 individuals internally displaced as insecurity persists.<sup>24</sup>
- 9,000 Haitians were displaced from Croix-des-Bouquets, Tabarre and Cité Soleil as they fled gang violence.<sup>25</sup>

**Displacement to other countries**

- 2018 total: **68,511 displaced**<sup>26</sup>
- From 2019-2022, the number of Haitians who fled to other countries **increased**.
  - 2019: **92,400 displaced**  
Top Destinations:
  - 2020: **105,900 displaced**  
Top Destinations:
  - 2021: **165,000 displaced**<sup>27</sup>  
Top Destinations: **42% Mexico** (69,877), **32% United States** (53,028), **23.5% Brazil** (38,717)<sup>28</sup>

<sup>18</sup> [Haiti: about 8,500 women and children displaced by ‘urban guerrilla’ in two weeks \(unicef.org\)](#)

<sup>19</sup> [United Nations Economic and Social Council: Report of the Ad Hoc Advisory Group on Haiti, April 18, 2022.](#)

<sup>20</sup> [United Nations Office for the Coordination of Humanitarian Affairs, “Haiti: Impact of social unrest on the humanitarian situation Flash Update #1,” September 22, 2022.](#)

<sup>21</sup> [UNICEF Haiti Humanitarian Situation Report, Mid-Year 2022.](#)

<sup>22</sup> [UNICEF Haiti Humanitarian Situation Report #1 \(Mid-Year 2022\)](#)

<sup>23</sup> [USAID BHA - Haiti Complex Emergency Fact Sheet #6](#)

<sup>24</sup> [USAID BHA - Haiti Complex Emergency Fact Sheet #6](#)

<sup>25</sup> [Voices of The Displaced | UNICEF](#)

<sup>26</sup> [UNHCR: Global Trends 2018.](#)

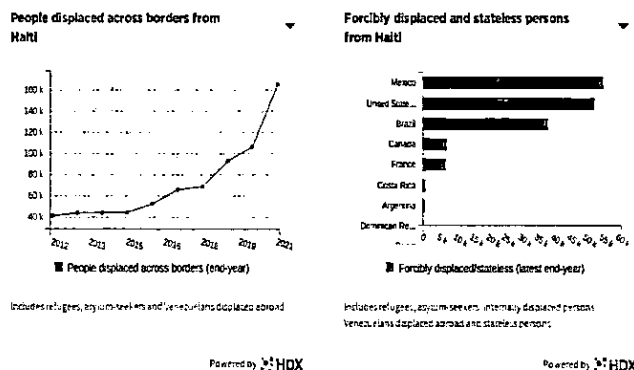
<sup>27</sup> [Haiti - Data on forcibly displaced populations and stateless persons - Humanitarian Data Exchange \(humdata.org\)](#)

<sup>28</sup> “Demographics and locations of forcibly displaced persons originating from Haiti,” United Nations Office for the Coordination of Humanitarian Affairs, Humanitarian Data Exchange, accessed September 24, 2022, [https://data.humdata.org/dataset/9c29bda6-7653-4c7e-9268-66d27457ab85/resource/70efe5e6-85ac-4cf1-a18f-4c0d0ce3e4cb/download/demographics\\_originating\\_hti.csv](https://data.humdata.org/dataset/9c29bda6-7653-4c7e-9268-66d27457ab85/resource/70efe5e6-85ac-4cf1-a18f-4c0d0ce3e4cb/download/demographics_originating_hti.csv)

Case 6:23-cv-00007 Document 265-9 Filed 08/25/23 in TXSD Page 83 of 157

## CHNV DISPLACEMENT DATA (2018 -2021)

## Quick Charts

Figure 2. Displacements from Haiti (2012-2021)<sup>29</sup>

## U.S. Population

- Based on 2021 American Community Survey Data, there are approximately 1,054,233 people of Haitian ancestry residing in the United States.<sup>30</sup> This population primarily resides in Florida and New York.
  - Florida (479,714)
  - New York (180,710).
  - Massachusetts (78,510)
  - New Jersey (68,558)<sup>31</sup>
- In FY 2020, 10,865 Haitians naturalized; most of these individuals reside in Florida, New York, and Massachusetts.<sup>32</sup>
- As of August 2022, there are more than 200,000 Haitians who are lawful permanent residents.
  - More than 138,000 Haitians are eligible to naturalize; they reside primarily in Florida, New York, Massachusetts, and New Jersey.<sup>33</sup>

## Nicaragua

## Displacement to other countries

"Restrictions on civic space and persecution of perceived opponents, in addition to the worsening socio-economic situation, have led to an increase in the number of people leaving Nicaragua for the United States, from 5,450 people intercepted at the border in all of 2020, to 84,055 in the first six months of

<sup>29</sup> Haiti - Data on forcibly displaced populations and stateless persons - Humanitarian Data Exchange ([humdata.org](https://humdata.org))

<sup>30</sup> S0201: SELECTED POPULATION PROFILE... - Census Bureau Table

<sup>31</sup> S0201: SELECTED POPULATION PROFILE... - Census Bureau Table

<sup>32</sup> U.S. Department of Homeland Security, Office of Immigration Statistics.

<sup>33</sup> USCIS Eligible to Naturalize Dashboard.

## CHNV DISPLACEMENT DATA (2018 -2021)

2022. The number of refugees and asylum seekers in Costa Rica had reached **over 150,000** people as of March 2022.”<sup>34</sup>

- 2018: **33,942 displaced**<sup>35</sup>  
Top Destinations: **68% Costa Rica** (23,162), **10.2% Panama** (3,464), **10% United States** (3,393), **4.1% Spain** (1,395)<sup>36</sup>
- 2019: **71,200 displaced**<sup>37</sup>  
Top Destinations: **63% Costa Rica** (44,883), **11% Panama** (7,728), **9% Spain** (6,327), **10.3% United States** (7,350)<sup>38</sup>
- 2020: **70,800 displaced**<sup>39</sup>  
Top Destinations: **60% Costa Rica** (42,511), **14.3 % United States** (10,127), **8.2% Panama** (5,841), **9.8% Spain** (6,943)<sup>40</sup>
- 2021: **175,100 displaced**<sup>41</sup>  
Top Destinations: **81% Costa Rica** (141,301), **16% Mexico** (28,006), **8% United States** (13,845), **4% Guatemala** (7,065)<sup>42</sup>
- 2022:

## U.S. Population

- Based on 2021 American Community Survey Data, there are approximately 457,005 people of Nicaraguan ancestry residing in the United States.<sup>43</sup> This population primarily resides in Florida and California.<sup>44</sup>
  - Florida (166,933)
  - California (118,963)
- In FY 2020, 3,474 Nicaraguans naturalized; most of these individuals reside in Florida.<sup>45</sup>
- As of August 2022, there are more than 30,000 Nicaraguans who are lawful permanent residents.
  - Almost 20,000 Nicaraguans are eligible to naturalize; they reside primarily in Florida, California, Texas, and New York.<sup>46</sup>

<sup>34</sup> Human rights situation in Nicaragua - Report of the United Nations High Commissioner for Human Rights (A/HRC/51/42) (Unofficial English Translation)

<sup>35</sup> UNHCR: Global Trends 2018.

<sup>36</sup> Nicaragua - Data on forcibly displaced populations and stateless persons - Demographics and locations of forcibly displaced persons originating from Nicaragua - Humanitarian Data Exchange (humdata.org)

<sup>37</sup> Nicaragua - Data on forcibly displaced populations and stateless persons

<sup>38</sup> Nicaragua - Data on forcibly displaced populations and stateless persons - Demographics and locations of forcibly displaced persons originating from Nicaragua - Humanitarian Data Exchange (humdata.org)

<sup>39</sup> Nicaragua - Data on forcibly displaced populations and stateless persons

<sup>40</sup> Nicaragua - Data on forcibly displaced populations and stateless persons - Demographics and locations of forcibly displaced persons originating from Nicaragua - Humanitarian Data Exchange (humdata.org)

<sup>41</sup> Nicaragua - Data on forcibly displaced populations and stateless persons

<sup>42</sup> Nicaragua - Data on forcibly displaced populations and stateless persons - Demographics and locations of forcibly displaced persons originating from Nicaragua - Humanitarian Data Exchange (humdata.org); See also UNHCR - Number of displaced Nicaraguans in Costa Rica doubles in less than a year.

<sup>43</sup> Census Bureau Tables

<sup>44</sup> S0201: SELECTED POPULATION PROFILE... - Census Bureau Table

<sup>45</sup> U.S. Department of Homeland Security, Office of Immigration Statistics.

<sup>46</sup> USCIS Eligible to Naturalize Dashboard.

## CHNV DISPLACEMENT DATA (2018 -2021)

## Venezuela

## Displacements to other countries

- By the end of 2018, more than 3 million Venezuelans fled to the Latin America and the Caribbean region.<sup>47</sup>
  - For the first time, asylum claims from Venezuelans dominated the global asylum statistics with 341,800 new asylum claims in 2018, accounting for more than 1 in 5 claims submitted.<sup>48</sup>
    - Most asylum claims made in Peru (190,500), Brazil (61,600), and United States (27,500)<sup>49</sup>
  - 2018: **3,078,226 displaced**<sup>50</sup>  
Top Destinations: **38% Columbia** (1,174,375), **21% Peru** (656,274), **9.4% Chile** (288,233), **8.5% Ecuador** (262,572), **4% Argentina** (128,183).<sup>51</sup>
  - 2019: **4.5 million displaced**<sup>52</sup>
  - 2020: **4.9 million displaced**<sup>53</sup>  
According to UNHCR, Venezuela was the third largest country of internationally displaced persons in 2020, with more than 90,000 refugees, almost 800,000 asylum-seekers and more than 3.5 million Venezuelans displaced abroad that year.<sup>54</sup>
  - 2021: **5.6 million displaced**<sup>55</sup>  
Top Destinations: Peru, Ecuador, Chile, Colombia, United States.<sup>56</sup>  
Refugees: 199,000; Asylum seekers: 971,000<sup>57</sup>  
Total Venezuelans displaced internationally in 2021: 4.4 million<sup>58</sup>
- Among refugees and Venezuelans displaced abroad in 2021:
- 72 percent lived in countries neighboring their countries of origin.<sup>59</sup>

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<sup>47</sup> UNHCR: Global Trends 2018.

<sup>48</sup> UNHCR: Global Trends 2018.

<sup>49</sup> UNHCR: Global Trends 2018.

<sup>50</sup> UNHCR: Global Trends 2018.

<sup>51</sup> Venezuela (Bolivarian Republic of) - Data on forcibly displaced populations and stateless persons - Demographics and locations of forcibly displaced persons originating from Venezuela (Bolivarian Republic of) - Humanitarian Data Exchange (humdata.org)

<sup>52</sup> Venezuela (Bolivarian Republic of) - Data on forcibly displaced populations and stateless persons - Humanitarian Data Exchange (humdata.org)

<sup>53</sup> Venezuela (Bolivarian Republic of) - Data on forcibly displaced populations and stateless persons - Humanitarian Data Exchange (humdata.org)

<sup>54</sup> United Nations Department of Economic and Social Affairs, Population Division (2020). International Migration 2020 Highlights (ST/ESA/SER.A/452).

<sup>55</sup> Venezuela (Bolivarian Republic of) - Data on forcibly displaced populations and stateless persons - Humanitarian Data Exchange (humdata.org)

<sup>56</sup> Venezuela (Bolivarian Republic of) - Data on forcibly displaced populations and stateless persons - Demographics and locations of forcibly displaced persons originating from Venezuela (Bolivarian Republic of) - Humanitarian Data Exchange (humdata.org)

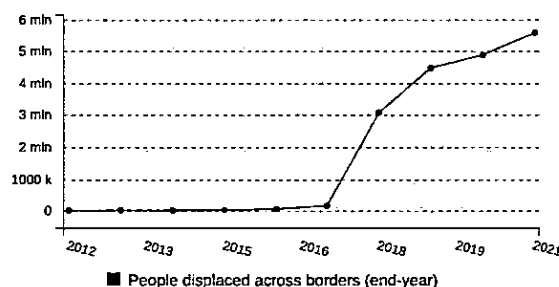
<sup>57</sup> UNHCR Venezuela Situation

<sup>58</sup> Refugee Statistics | USA for UNHCR (unrefugees.org)

<sup>59</sup> UNHCR: Global displacement hits another record, capping decade-long rising trend (unrefugees.org); UNHCR Global Trends: Forced Displacement in 2021.

**CHNV DISPLACEMENT DATA (2018 -2021)**

- Colombia hosted 1.8 million Venezuelans displaced abroad.
- Globally, there were 6.1 million Venezuelan refugees, asylum seekers and migrants combined in 2021 (reported through the Coordination Platform for Refugees and Migrants from Venezuela).<sup>60</sup>

**People displaced across borders from Venezuela  
(Bolivarian Republic of)**

Includes refugees, asylum-seekers and Venezuelans displaced abroad.

Powered by HDX

**Figure 3. Total Venezuelans Displaced Across Borders in millions (2012-2021).**<sup>61</sup>

- 2022:  
“[As of] May 2022, more than 6.1 million Venezuelans were living outside of Venezuela, according to R4V, led by the International Organization for Migration (IOM) and UNHCR.”<sup>62</sup>
  - Out of almost 6 million displaced Venezuelans, 4.8 million lived in the Latin America Caribbean region as of September 2021.<sup>63</sup>

**U.S. Population**

- Based on 2021 American Community Survey Data, there are approximately 659,631 people of Venezuelan ancestry residing in the United States.<sup>64</sup> Top destinations for Venezuelans are Florida and Texas.
  - Florida (307,448)
  - Texas (99,700)<sup>65</sup>

<sup>60</sup> UNHCR: Global displacement hits another record, capping decade-long rising trend (unrefugees.org)<sup>61</sup> OCHA Humanitarian Data Exchange, Venezuela (Bolivarian Republic of) - Data on forcibly displaced populations and stateless persons.<sup>62</sup> USAID: Venezuela Regional Crisis – Complex Emergency, June 14, 2022.<sup>63</sup> UNHCR Venezuela Situation - Response in the Americas (May - September 2021).<sup>64</sup> S0201: SELECTED POPULATION PROFILE... - Census Bureau Table<sup>65</sup> S0201: SELECTED POPULATION PROFILE... - Census Bureau Table

**CHNV DISPLACEMENT DATA (2018 -2021)**

- In FY 2020, 6,993 Venezuelans naturalized; most of these individuals reside in Florida.<sup>66</sup>
- As of August 2022, there are more than 120,000 Venezuelans who are lawful permanent residents.
  - More than 70,000 Venezuelans are eligible to naturalize; they reside primarily in Florida, Texas, and New York.<sup>67</sup>

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<sup>66</sup> U.S. Department of Homeland Security, Office of Immigration Statistics.

<sup>67</sup> USCIS Eligible to Naturalize Dashboard.



|                        |               |
|------------------------|---------------|
| DEFENDANT'S<br>EXHIBIT |               |
| CASE<br>NO.            | 6:23-cv-00007 |
| EXHIBIT<br>NO.         | 081           |


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

|                                    |   |                      |
|------------------------------------|---|----------------------|
| STATE OF TEXAS, <i>et al.</i> ,    | § |                      |
|                                    | § |                      |
| <i>Plaintiffs,</i>                 | § |                      |
|                                    | § |                      |
| vs.                                | § | CIVIL ACTION No.     |
|                                    | § | 6:23-CV-00007        |
| UNITED STATES DEPARTMENT OF        | § |                      |
| HOMELAND SECURITY, <i>et al.</i> , | § |                      |
|                                    | § |                      |
| <i>Defendants, and</i>             | § | JUDGE DREW B. TIPTON |
|                                    | § |                      |
| VALERIE LAVEUS, <i>et al.</i> ,    | § |                      |
|                                    | § |                      |
| <i>Intervenor Defendants.</i>      | § |                      |

**INTERVENOR DEFENDANTS'**  
**TAB 81, ECF 175-16**

**EXHIBIT  
15**

## **2023: A Moment of Truth for Global Displacement**

 [unhcr.org/spotlight/2023/01/2023-a-moment-of-truth-for-global-displacement](https://www.unhcr.org/spotlight/2023/01/2023-a-moment-of-truth-for-global-displacement)

A six-year-old girl helps her older sisters weave a carpet as their only means of supporting their family living on the outskirts of Kabul, Afghanistan, after being displaced from Daikundi Province, 7 November 2022. UNHCR/ Oxygen Film Studio

**In the first months of 2022, the number of people forced to flee war, violence and persecution worldwide surpassed 100 million for the first time. Any hope this would represent a high-water mark for global displacement was soon dashed as the total continued to rise, reaching 103 million by mid-year, driven by the war in Ukraine and unresolved crises in other parts of the world.**

**Far from being shocked into action, the international community has so far been unable to resolve the conflicts and other causes of displacement that have forced so many millions to flee their homes. This continued inaction, combined with the growing effects of the climate emergency, spiralling costs of living and looming global economic recession, means the outlook for global displacement in 2023 appears bleak.**

**And yet, even though many of the greatest challenges in the year ahead will be continuations of existing humanitarian emergencies, we do not have to be bound by the past. We can seek ways to share responsibility for the protection and well-being of refugees, internally displaced and stateless people. This coming December will provide an opportunity to do just that as governments, charities and NGOs, the private sector and many others join representatives of displaced communities for the second Global Refugee Forum.**

**Below follows a snapshot of some of the most critical situations likely to determine whether last year's record displacement figure was just another data point on an inexorable upward trend, or a moment when the tide began to turn.**

### **Ukraine**

As the full-scale invasion of Ukraine approaches the one-year mark, nearly a third of Ukrainians have been forced to flee their homes. This includes 5.9 million people who are displaced inside the country and who, together with those who have remained in their homes in frontline and other areas, now face plummeting winter temperatures and prolonged

electricity and heating outages as the country's critical infrastructure comes under attack. If the war continues and attacks on electricity, heating and water supplies persist, more people may be pushed to join the 7.9 million Ukrainians who have already sought refuge across Europe. Helping those affected by the war inside Ukraine, including ensuring they have warm and dignified living conditions, will require a massive collective response from government, humanitarian agencies, local partners, international donors, and the private sector.

*Galyna, 72, sits near a kerosene lamp in an effort to stay warm. Her home in P'yatykhatky village, in Ukraine's Kherson region, has no electricity, 19 November 2022. ©UNHCR/Diana Zeyneb Alhindawi*

### **Democratic Republic of the Congo**

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Far from winding down, one of the world's longest-running humanitarian crises appears to have entered a new and deadly phase with a rise in attacks on civilians by non-state armed groups, especially in the east of the country. A recent offensive by the M23 armed group has forced nearly 521,000 people to flee their homes in North Kivu Province, contributing to the estimated 5.65 million Congolese who are already displaced inside their country. Another 1 million are living as refugees in other countries across Africa. Funding is not keeping pace with the rising needs: in 2022, UNHCR received less than half of the amount required for its humanitarian response.

*A woman recovers in hospital in the DRC's Ituri Province, after her village was attacked in March 2022. More than a dozen people were killed, including four of her children, 23 March 2022. UNHCR/Hélène Caux © UNHCR/Hélène Caux.*

### **Horn of Africa**

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After four consecutive failed rainy seasons, Somalia and large parts of Kenya and Ethiopia are experiencing their most severe drought in recent history. The consequences have been catastrophic, and are set to worsen into 2023 with the current rainy season also expected to fail. The UN predicts that at least 36.4 million people will be affected across the Horn of Africa with livelihoods lost due to crop failures and livestock deaths. In Somalia, many families are also facing insecurity caused by armed conflict. The combination of drought and conflict has displaced over 1.7 million people inside the country since last January, while thousands more have crossed into northern Kenya to seek aid at the Dadaab refugee camps, and into Ethiopia. In Ethiopia itself, hundreds of thousands have been internally displaced due to the drought and insecurity in the Somali, SNNP, and Oromia regions.

*A woman builds a shelter for her family after arriving at the Haya Suftu camp for displaced people in Ethiopia, 22 November, 2022. © UNHCR/Tiksa Negeri*

## US-Mexico border

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Following a Supreme Court decision on 27 December to keep in place a COVID-19 public health-related measure that allows US officials to rapidly return asylum seekers attempting to cross the US-Mexico border, thousands remain in a precarious limbo in Mexican border cities. The Supreme Court will hear arguments in March, and the measure will stay in place at least until a decision later in the year. Title 42 affects many people from El Salvador, Guatemala, Honduras and Mexico. Cubans, Nicaraguans, Haitians and Venezuelans have also been added as nationalities impacted following the creation of separate, limited programmes for entry to the US. Movement through the Darien Gap – a treacherous stretch of jungle that separates Colombia and Panama – surged in 2022, with Venezuelans making up by far the largest number risking this dangerous route.

*A woman and her two children cross the Rio Grande which runs along the border between Mexico and the US state of Texas, 27 March 2021. © UNHCR/Nicolo Filippo Rosso.*

## Afghanistan

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The humanitarian crisis in Afghanistan shows no signs of easing. Conflict may have largely subsided following the Taliban's takeover 18 months ago, but rising prices, a collapsing economy, and ever-increasing restrictions on the rights of women and girls continue to cause misery for ordinary Afghans. Poverty is endemic, half of the population of more than 40 million people faces acute food insecurity, and more than 3 million people in the country remain displaced from their homes. A recent directive by Afghanistan's de facto authorities banning women from working for non-governmental organizations is expected to have a major impact on the delivery of critical humanitarian aid, particularly to women and children.

*Two sisters carry water to their home on the edge of Kabul. The family fled Nangarhar province three years ago because of fighting between the Taliban and government forces, 6 February 2022. © UNHCR/Andrew McConnell*

## The Central Sahel

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Attacks on both civilians and security forces by extremist groups are likely to continue in Mali, Niger and Burkina Faso, which together make up the Central Sahel region. Besides the ongoing violence, the region faces chronic food shortages, environmental degradation and climate shocks. While much of the displacement in the region has so far been within countries' own borders, growing numbers are fleeing abroad to find safety further south in Benin, Cote d'Ivoire, Togo and Ghana, further escalating a crisis already affecting some of the most vulnerable people on Earth. In addition to the arrival of refugees, the Sahel conflict has other repercussions for Benin, Cote d'Ivoire and Togo, all of which have been attacked by the same armed groups operating out of Burkina Faso. If these militias continue their advance southward, there is a risk of further instability in West Africa.

*Since 2015, the traditional population of Mauritanian farmers and herders living around Lake Mahmouda has witnessed the arrival of fishermen fleeing across the border from Mali, 8 October 2021. © UNHCR/Colin Delfosse*

## **Haiti**

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In recent months, the humanitarian crisis in Haiti has reached alarming new levels and the turbulence is likely to continue. Heavily armed gangs control 60 per cent of the capital, Port-au-Prince, and all main roads in and out of the city. This has forced thousands of people to flee their homes and prevented humanitarian assistance from reaching those who desperately need it. Almost half the population – 4.7 million Haitians – are facing acute hunger, and cholera has made a comeback throughout the country's 10 Departments, despite government and UN efforts. Given these overlapping crises, UNHCR has called on states in the region to suspend the forced return of thousands of Haitians who have sought asylum in other countries

*A Haitian man carries his son as they cross the border between Mexico and the United States, determined to claim asylum, 28 March 2022. © UNHCR/Nicolo Filippo Rosso*

## **Sea crossings**

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Around the world, sea crossings continue to expose people to grave risks with increasing levels of desperation forcing more refugees to make these dangerous journeys. In 2022, as in previous years, the majority of recorded shipwrecks and deaths at sea occurred in the Mediterranean. But the Andaman Sea, the English Channel, and the Florida Keys all saw an increase in crossings, with fatal consequences – trends that are likely to continue into 2023. Hundreds of asylum seekers came ashore in the Florida Keys over the New Year while since November, 12 boats carrying Rohingya refugees have been reported in the Andaman Sea and the Bay of Bengal. Some have come ashore, but others are still at sea and more than 200 people are feared dead. UNHCR continues to stress the need for greater regional and international cooperation to save lives at sea and share responsibility for those who attempt these journeys.

*A boat that carried Rohingya refugees across the Andaman Sea remains anchored offshore after the refugees disembarked in Aceh, Indonesia on 8 January, 2023. © UNHCR/Kenzie Eagan*

## **Food insecurity**

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The number of people globally who do not have enough to eat is at its highest in modern history, according to the UN, which estimates that at least 222 million people faced acute food insecurity by the end of 2022. The COVID-19 pandemic, the war in Ukraine, the climate crisis and a looming worldwide economic downturn have all combined to hit food supplies

and send food and commodity prices skyrocketing. Forcibly displaced people coping with humanitarian crises and their host communities are disproportionately affected. In many countries where UNHCR works, food rations have been cut while there is also less funding for programmes that help refugees to become more self-reliant and less dependent on aid.

*A Syrian refugee brings bread to her home in an informal settlement in Lebanon's Bekaa Valley during a snowstorm. More than 90 per cent of Syrian refugees in Lebanon need humanitarian assistance to survive, 4 February 2022. © UNHCR/Houssam Hariri*

## **The climate crisis**

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As global carbon emissions continue to climb, climate change is contributing to humanitarian crises and cycles of displacement around the world. Over 70 per cent of the world's refugees and internally displaced people come from the most climate-vulnerable countries. They will be among the first to suffer as climate shocks and extreme weather conditions continue into 2023. Helping to prepare them for those shocks and increase their resilience to a changing climate will be more important than ever. Countries and regions that are both climate "hotspots" and affected by conflict or hosting large numbers of forcibly displaced people include Afghanistan, Bangladesh, Pakistan, the Central Sahel, Mozambique, Somalia, Sudan, Syria and Yemen. Displaced people have called for a seat at the table at the next UN climate summit – COP28 – taking place in Dubai from late November.

*Cholul Jock reinforces a hand-built dyke to protect her family from rising water in Fangak, South Sudan. They have been displaced by floods multiple times, 8 March 2022. © UNHCR/Samuel Otieno*

## **Statelessness**

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At least 4.3 million people around the world remain without a nationality, often despite having been born in, and spending their whole lives in, the same country. Without citizenship, they are caught in legal limbo and often excluded from formal employment, education and health care. In 2023, UNHCR will enter the final two years of its decade-long #IBelong campaign to end statelessness, with a focus on 28 priority countries including Albania, Burkina Faso, Colombia, Iraq, Kenya, Myanmar and Thailand. To build on these efforts, in 2023 UNHCR will also launch a new Global Alliance to End Statelessness, bringing together key organizations and stakeholders – including stateless and formerly stateless people themselves – to advance solutions to the issue by 2030.

*Hassinah Begom, a Rohingya midwife, lives in a camp for internally displaced people in Myanmar's western Rakhine State. The Rohingya have been denied equal access to citizenship and essential services, 5 August 2022. © UNHCR/Reuben Lim Wende*

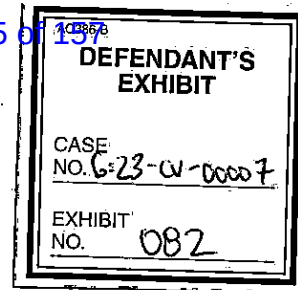
## **Global Refugee Forum**

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The first Global Refugee Forum in 2019 brought together governments, refugees, local authorities, international organizations, civil society and the private sector to deliver more comprehensive, sustainable responses to refugee situations, based on the principle of more equitable burden- and responsibility-sharing, as outlined in the Global Compact on Refugees. Four years on, stakeholders will return to Geneva in December for the second Global Refugee Forum, where they will assess implementation of the 1,673 pledges and nearly 50 initiatives launched since the first forum and announce new pledges, including financial and technical support and policy approaches. The outcome will contribute to strengthening the global response to record levels of displacement and the search for solutions.

*Refugees and asylum seekers attending the Global Refugee Forum play football on the lawn at the Palais des Nations, 18 December 2019. © UNHCR/Andrew McConnell*



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

STATE OF TEXAS, *et al.*,

*Plaintiffs,*

vs.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, *et al.*,

*Defendants, and*

VALERIE LAVEUS, *et al.*,

*Intervenor Defendants.*

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CIVIL ACTION No.  
6:23-CV-00007

JUDGE DREW B. TIPTON

**INTERVENOR DEFENDANTS'**  
**TAB 82, ECF 175-17**

## Seven-fold increase in the number of children walking through the Panamanian jungle towards North America this year

[unicef.org/press-releases/seven-fold-increase-number-children-walking-through-panamanian-jungle-towards-north](https://www.unicef.org/press-releases/seven-fold-increase-number-children-walking-through-panamanian-jungle-towards-north)



UNICEF/UN0793524

**PANAMA CITY, 30 March 2023** - The number of children crossing the dangerous Darien jungle between Colombia and Panama by foot has increased seven-fold in the first two months of 2023 compared to the same period last year, UNICEF warned today.

In January and February of this year, close to 9,700 children have crossed the Darien Gap towards North America. Most are expected to make their way toward the United States.

The figure is the highest number ever recorded in a two-month period. During the same period last year, less than 1,400 were registered by Panamanian authorities.

Children now represent 1 in 5 migrants walking through the Darien jungle and are the fastest growing group among people fleeing their homes under the threat of violence or migrating in search of better opportunities.

**EXHIBIT  
16**

Additionally, the number of unaccompanied or separated children continues to grow. In the first two months of 2023, UNICEF estimates that an average of five children arrived alone in Panama every day or at least 200 so far this year. Last year UNICEF registered less than 40 unaccompanied or separated children in the same period. Unaccompanied children are particularly vulnerable to violence, abuse, and exploitation.

“Our teams on the ground had never seen such a skyrocketing number of children crossing the Panama jungle on their own or with their parents,” said Garry Conille, UNICEF Regional Director for Latin America and the Caribbean from Panama City. “UNICEF is increasing its humanitarian assistance in support to the Government of Panama’s response. However, ensuring access to water, child and maternal health and protection services for all children is getting more complicated week after week. If current trends continue, the number of migrant children passing through Panama this year will far exceed the total registered last year.”

More than 6,500 people, including about 1,300 children, were left stranded in host communities and Temporary Migrant Reception Stations in Darien (Panama) when the authorities temporarily suspended the transit of migrants from border to border after a lethal bus accident in February. As a result, the shelter capacity in Darien (Panama) was sometimes exceeded by as much as 600 per cent. Today, access to basic services such as drinking water, hygiene, food and medical attention remain insufficient. Although transportation services have been reactivated, the high number of daily entries exceed the capacity to guarantee proper conditions for children and their families, as well as orderly and safe migration flow in the countries along the migration route.

In Colombia, Panama and the rest of Central America, UNICEF and its partners are providing lifesaving and long-term assistance to migrant children, pregnant women and families, in addition to the communities impacted by migration. UNICEF-supported interventions include psychosocial support and child protection, case management, child and maternal health, access to water, sanitation and hygiene services and services to prevent and respond to gender-based violence.

“In Latin America and the Caribbean, many children are not just crossing one border, they are moving across several countries under extreme circumstances. And as these numbers continue to increase, governments from countries of origin, transit, and destination; civil society organizations; and international organizations need to work together to ensure the rights of each and every child are protected throughout the journey,” added Conille.

UNICEF calls on host governments to strengthen their response to increasing child migration flows and on donors and partners to assign additional flexible funds to better respond to the growing needs of children and women in hosting communities and migrant families, in order to:

6/19/23, 6:46 PM Case 6:23-cv-00007 Document 175-17 Filed 06/20/23 in TXSD Page 3 of 3  
Seven-fold increase in number of children walking through Panamanian jungle towards North America this year

- Maintain and improve the provision of critical services such as water, child and maternal health, protection, food, and shelter;
- Strengthen cross-border coordination mechanisms to guarantee the rights of children on the move;
- Increase security measures during transit to ensure the safety and protection of children at all times;
- Strengthen institutional capacity to establish long-term response plans taking the specific needs of migrant children into account.

of 157  
 AL3888  
**DEFENDANT'S  
 EXHIBIT**  
 CASE  
 NO. 6-23-W-00007  
 EXHIBIT  
 NO. 083

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

STATE OF TEXAS, *et al.*,

*Plaintiffs,*

vs.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, *et al.*,

*Defendants, and*

VALERIE LAVEUS, *et al.*,

*Intervenor Defendants.*



CIVIL ACTION No.  
6:23-CV-00007

JUDGE DREW B. TIPTON

**INTERVENOR DEFENDANTS’  
TAB 83, ECF 175-18**



EXHIBIT  
17

FORBES > LEADERSHIP > LEADERSHIP STRATEGY

# GOP State Lawsuit Could Stop Sound Way To Reduce Illegal Immigration

**Stuart Anderson** Senior Contributor @

*I write about globalization, business, technology and immigration.*

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Texas Attorney General Ken Paxton speaks outside the U.S. Supreme Court on November 01, 2021, in ... [+] GETTY IMAGES

State Attorneys General have filed a lawsuit to end parole programs that data show might be the most effective approach to reducing

illegal entry into the United States since the Bracero Program. Encounters with Border Patrol agents have dropped significantly for individuals from the four countries eligible for the parole programs, which allow for lawful entry with U.S. sponsors. Critics of the lawsuit note the attorneys general would not support ending an immigration enforcement policy that had proven to be this effective in discouraging illegal entry into the United States.

**Table 1: Impact of Parole Programs on Border Patrol Encounters at the Southwest Border (Dec. 2022 to Feb. 2023)**

| Country   | December 2022 | January 2023 | February 2023 |
|-----------|---------------|--------------|---------------|
| Cuba      | 42,616        | 6,187        | 176           |
| Haiti     | 31            | 47           | 21            |
| Nicaragua | 35,361        | 3,331        | 402           |

## The Numbers Tell A Story Of Effectiveness

While human rights advocates note treating people fairly should be a primary aim of U.S. immigration policy, border numbers have dominated the public debate. Largely ignored, according to experts on the region, is that the Western Hemisphere is experiencing a historic refugee crisis. Approximately 7.1 million refugees and migrants have left Venezuela since 2015 due to the political and economic crisis. People have also fled Cuba, Haiti and Nicaragua in large numbers because of the dire situations in those nations.

In January 2023, to provide legal pathways, the Biden administration announced parole programs for up to 30,000 individuals a month from Cuba, Haiti, Nicaragua and Venezuela to enter the United States with a U.S. sponsor. The parole programs have produced dramatic results and almost unprecedented effectiveness in reducing illegal entry as measured by encounters with Border Patrol agents. The policies also represent a humane alternative to forcing individuals to seek protection by entering through dangerous routes between ports of entry because legal access to the United States is blocked.

The number of Border Patrol encounters at the Southwest border declined by nearly 98% for Cuba, Haiti, Nicaragua and Venezuela as a group between December 2022 and February 2023, according to a National Foundation for American Policy (NFAP) analysis. Border Patrol encounters for all other countries not in the parole programs fell by only 8% during this period.

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Border Patrol encounters with Cubans along the Southwest border dropped by 99.6% from 42,616 to 176 between December 2022 and February 2023. Border Patrol encounters declined by 77% for Venezuelans (from 6,182 to 1,451) and 99% for Nicaraguans (35,361 to 402) between December 2022 and February 2023.

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During the same period, Border Patrol encounters with three Central American countries without access to parole programs changed little. Border Patrol encounters with Salvadorans along the Southwest border rose by 6% between December 2022 and February 2023. Border Patrol encounters declined by only 2% for Guatemalans (from 14,245 to 13,942) and 4% for Hondurans (10,328 to 9,952) between December 2022 and February 2023.

The number of Border Patrol encounters in February 2023 for individuals from those Central American countries without access to the parole programs (El Salvador, Guatemala and Honduras) were far higher than their neighbors in Nicaragua and Venezuela eligible for the parole programs.

## Attorneys General Lawsuit

In January 2023, Texas Attorney General Ken Paxton and other Republican attorneys general filed a motion for a preliminary injunction to stop the parole programs for Venezuela, Cuba, Haiti and Nicaragua. The filing argued the parole programs are unlawful. The U.S. Department of Justice was scheduled to reply to the motion by March 24, 2023. An injunction could halt the parole programs, reversing the immigration gains from providing a legal pathway for individuals from the four countries.

The judge would need to override the president's authority to negotiate with a foreign country since the parole program is part of

an agreement with Mexico. “Mexico has agreed to accept up to 30,000 migrants each month from the four countries who attempt to walk or swim across the U.S.-Mexico border and are turned back,” reports PBS. “[T]he U.S. cannot easily send back people from those four countries for a variety of reasons that include relations with the governments there.”

The Mexican government agreed to accept more individuals from the four countries expelled from the United States in conjunction with the parole programs. If the parole programs are stopped, Mexico might no longer accept returnees from the countries.

Senator John Cornyn (R-TX) announced he will introduce a joint resolution of disapproval under the Congressional Review Act to end the parole programs. “We need to have orderly, humane and legal immigration and stop the drugs coming across the border. What we are doing now does not work.” Ironically, ending the parole programs, as Sen. Cornyn advocates, would stop the most “orderly, humane and legal” way the United States has found to reduce illegal entry in more than 60 years.

## **The Bracero Program**

Before the parole programs, the only other effective way to reduce illegal entry significantly has been to provide greater opportunities to work legally in the United States. Increasing the lawful admission of farmworkers in the 1950s under the Bracero Program significantly reduced unlawful entry to the United States, according to NFAP research. After legal admissions from the Bracero Program increased, illegal entry declined by 95% between 1953 and 1959 as measured by apprehensions at the border.

The Bracero Program proved the most effective policy the U.S. government ever established to reduce illegal entry. “Without

question the bracero program was . . . instrumental in ending the illegal alien problem of the mid-1940's and 1950's," according to the Congressional Research Service. (The Bracero Program ended in 1964.)

The Trump administration relied on harsh immigration enforcement policies but Border Patrol data show the policies were ineffective in reducing illegal entry. Under Trump, apprehensions at the Southwest border, a proxy for illegal entry, increased by more than 100 percent between FY 2016 and FY 2019 (from 408,870 to 851,508). With the pandemic in 2020, Border Patrol encounters initially declined. However, Border Patrol encounters on the Southwest border rose from 16,182 in April 2020 to 69,032 by October 2020, a 327% increase. (The Border Patrol reported encounters in place of apprehensions beginning in March 2020 due to the use of the Title 42 health authority.)

The parole programs for Cuba, Haiti, Nicaragua and Venezuela have been extraordinarily effective in reducing illegal entry as measured by Border Patrol encounters along the Southwest border. Supporters argue the parole programs have offered a humane, lawful and orderly way for individuals to enter the United States. Border Patrol data show ending the parole programs will likely increase illegal entry and make seeking protection in the United States more dangerous.

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Stuart Anderson

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**Gowokegobroke**



13 April, 2023

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01-157  
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**DEFENDANT'S  
EXHIBIT**

CASE  
NO. 6-23-W-00007

EXHIBIT  
NO. 084

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

STATE OF TEXAS, *et al.*,

*Plaintiffs,*

**VS.**

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, *et al.*,

*Defendants, and*

VALERIE LAVEUS, *et al.*,

*Intervenor Defendants.*

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CIVIL ACTION No.
6:23-CV-00007

JUDGE DREW B. TIPTON

**INTERVENOR DEFENDANTS’
TAB 84, ECF 175-19**

NATIONAL FOUNDATION FOR AMERICAN POLICY
.....
NFAP POLICY BRIEF » JANUARY 2023

THE HISTORIC REFUGEE CRISIS IN THE
WESTERN HEMISPHERE

BY STUART ANDERSON

EXHIBIT
18

EXECUTIVE SUMMARY

The United States is experiencing a historic refugee crisis in the Western Hemisphere that has been cast as a border crisis, according to a National Foundation for American Policy (NFAP) analysis. Criticism of the increase in Border Patrol encounters has implied that individuals would not come to the United States if U.S. immigration policy were sufficiently harsh. However, the countries from which people are seeking refuge or employment in America have experienced economic and political upheavals. These upheavals or continuing violence and repression have created a large number of refugees.¹

The best way to address illegal entry is to treat the current situation at the border as a historic refugee crisis and provide legal pathways for work and human rights protection. The Biden administration has taken steps in this direction with new parole programs and efforts to funnel asylum seekers to ports of entry. Unfortunately, the administration has been slow to label the problem a refugee crisis and, until January 2023, focused less on ways to expand the ways individuals could enter or work legally. Relying on Title 42 to expel migrants proved to be a costly mistake: It increased the number of encounters at the border by encouraging repeating crossings and illegal entry and allowed critics to use an inaccurate measurement since apprehensions at the border, the usual historical measure, are not the same as the more numerous "encounters."

If Title 42 had not been in effect, the number of Border Patrol apprehensions at the Southwest border likely would have been about 1.2 million in FY 2021 and less than 1.6 million in FY 2022, according to a National Foundation for American Policy analysis. (This assumes, for the analysis, no other changes.) Due to Title 42, NFAP estimates there were approximately 471,000 more encounters at the Southwest border in FY 2021 and about 627,500 more encounters in FY 2022 than if the policy had not been in place.

Among the findings of the report:

- Venezuelans have experienced a historic economic collapse and widespread human rights violations that have caused more than 7.1 million refugees and migrants to leave the country since 2015. That number is similar to the number of refugees who left Ukraine after Russia invaded in 2022. U.S. Border Patrol encounters at the Southwest border with Venezuelans increased from 1,227 in FY 2020 to 47,752 in FY 2021 and 187,286 in FY 2022, an increase of 15,164% between FY 2020 and FY 2022.

¹ This policy brief expands upon Stuart Anderson, "A Historic Refugee Crisis Miscast As a Border Emergency," *Reason*, January 26, 2023. <https://reason.com/2023/01/26/a-historic-refugee-crisis-miscast-as-a-border-emergency/>.

The Historic Refugee Crisis In The Western Hemisphere

- Advocates of harsher immigration policies have ignored that refugees leaving Venezuela and elsewhere have settled in or traveled to several countries across the Western Hemisphere—many in much larger numbers than in the United States. Approximately 1.8 million Venezuelans have gone to Colombia and 1.3 million to Peru. In other words, people did not leave Venezuela because of the Biden administration's immigration policies. Most refugees from Venezuela left their country long before Joe Biden became president. According to a UNHCR [report](#) on Venezuelans, "Half of all refugees and migrants in the region cannot afford three meals a day and lack access to safe and dignified housing. To access food or avoid living on the streets, many Venezuelans resort to survival sex, begging or indebtedness."
- The situation in Nicaragua also has caused people to flee. "The election of Sandinista leader Daniel Ortega in 2006 began a period of democratic deterioration marked by the consolidation of all branches of government under his party's control, the limitation of fundamental freedoms, and unchecked corruption in government," writes Freedom House. [U.S. Border Patrol encounters](#) at the Southwest border with Nicaraguans increased from 2,123 in FY 2020 to 49,841 in FY 2021 and 163,552 in FY 2022, an increase of 7,604% between FY 2020 and FY 2022.
- Cubans have fled their country and its communist government for over 50 years. "Cuba's one-party communist state outlaws political pluralism, bans independent media, suppresses dissent, and severely restricts basic civil liberties," according to Freedom House. "The government continues to dominate the economy . . . The regime's undemocratic character has not changed." [U.S. Border Patrol encounters](#) with Cubans increased from 9,822 in FY 2020 to 38,139 in FY 2021 and 220,321 in FY 2022, an increase of 2,143% between FY 2020 and FY 2022.
- The story is similar for individuals from other countries in the hemisphere. Between FY 2020 and FY 2022, U.S. Border Patrol encounters increased 560% for Haitians, 465% for Salvadorans, 397% for Hondurans and 383% for Guatemalans.
- Providing the legal means of seeking relief by at least partly opening ports of entry and recently establishing [parole programs accepting up to 30,000 Venezuelans, Cubans, Nicaraguans and Haitians a month](#) (with U.S. sponsors) has reduced illegal entry. "Encounters of Cuban, Haitian, Nicaraguan, and Venezuelan non-citizens attempting to cross the southwest border unlawfully has decreased drastically since President Biden announced an expanded parole program for these individuals," according to Department of Homeland Security statistics [released](#) on January 25, 2023. "Preliminary numbers from January show that

NATIONAL FOUNDATION FOR AMERICAN POLICY

Page 3

The Historic Refugee Crisis In The Western Hemisphere

encounters of Cubans, Haitians, Nicaraguans, and Venezuelans crossing unlawfully between ports of entry at the southwest border declined 97% compared to December."

- Donald Trump's policies did not reduce illegal immigration or discourage people from applying for asylum. Pending asylum cases rose 300% between FY 2016 and FY 2020 (from 163,451 to 614,751), according to Syracuse University's TRAC. Apprehensions at the Southwest border (a proxy for illegal entry) rose more than 100% between FY 2016 and FY 2019 (from 408,870 to 851,508). Apprehensions fell for several months at the start of the Covid-19 pandemic, but by August and September 2020, apprehensions returned to the approximate level of illegal entry for the same months in FY 2019.

Addressing the situation at the border as a refugee crisis shifts the focus to helping people. Providing more opportunities to work legally with visas and implementing a widescale refugee program with circuit rides and camps organized by UNHCR, the UN Refugee Agency, would be reasonable additional steps. Congress has not enacted measures to provide more options to work legally or greater refugee protections, or even sufficient funding for the U.S. asylum program. Treating people humanely is not a sign of weakness. Allowing for orderly entry is a smart policy consistent with America's best tradition as a nation of immigrants and refugees.

THE BIDEN ADMINISTRATION'S FRAMING AND ACTIONS

During the first two years of the Biden presidency, the administration adopted a mostly conventional approach to illegal immigration. The administration largely accepted the standard measures of illegal immigration—Border Patrol encounters and apprehensions at the Southwest border. Critics of the Biden administration used these measures and blamed the president for the increase at the border, even though the administration continued to use key policies from the Trump administration, particularly expulsions of asylum seekers utilizing the Title 42 health provision.

After almost two years, in a January 5, 2023, speech, President Joe Biden framed the situation at the border, at least in part, as a refugee crisis, although he did not use those words. Instead, he mentioned conditions in different countries that have caused thousands of individuals to seek protection in the United States. "Over the past several years, thousands of people have been fleeing from Central and South America and the Caribbean countries ruled by oppressive dictators—including Cuba, Nicaragua, and Venezuela—and escaping gang violence, which has the same impact, in Haiti," he said. "Currently, these four countries account for most of the people traveling into Mexico to start a new life by getting at the—to the American border and trying to cross. But instead of safe and orderly process at the border, we have a patchwork system that simply doesn't work as it should. We don't have enough asylum officers or personnel to determine whether people qualify for asylum."²

For the past two years, NFAP and other organizations and analysts have recommended that the Biden administration expand legal pathways for admission, viewing that as the most effective and humane approach to address the situation at the Southwest border.

During his January 5, 2023, speech, the president announced a new policy that would parole into the United States up to 30,000 people a month from Venezuela, Nicaragua, Cuba and Haiti if they meet certain criteria, including support from a U.S. sponsor. The parole programs and at least partly opening ports of entry have already reduced illegal entry, according to [Border Patrol statistics](#).

The president and DHS announced an "appointment portal" for "noncitizens located in Central and Northern Mexico seeking to enter the United States lawfully through a U.S. port of entry" using a mobile application to schedule "an appointment to present themselves for inspection and to initiate a protection claim."³ This effort to offer protection

² <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/01/05/remarks-by-president-biden-on-border-security-and-enforcement/>.

³ <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/05/fact-sheet-biden-harris-administration-announces-new-border-enforcement-actions/>.

The Historic Refugee Crisis In The Western Hemisphere

and encourage people to enter through lawful means is the correct response. Human rights advocates criticized the Biden administration's continued use of Title 42 to expel individuals and the proposed regulation to restrict access to asylum.

The U.S. Supreme Court will decide the fate of Title 42 and a lawsuit filed by attorneys general in several Republican-led states after the Biden administration attempted to end the Title 42 health designation. "In its order, the court . . . agreed to take up the states' appeal this term," reported CNN. "The court said it would hear arguments on the case during its argument session that begins in February 2023."

MAINTAINING TITLE 42 MADE THE PROBLEM WORSE

Maintaining Title 42 during the first two years of the Biden presidency proved to be a mistake. First, by failing to frame the issue as a refugee crisis and not enacting policies to address the historic humanitarian scope of the problem, the Biden administration played into the hands of critics by focusing solely on the number of Border Patrol encounters or apprehensions at the Southwest border. Second, after conceding that border numbers would measure immigration policy success for failure—rather than treating people humanely or ensuring legal pathways were used—the administration continued to use Title 42, which has inflated the number of Border Patrol encounters (inaccurately called apprehensions by many) due to many individuals being counted multiple times as repeat border crossers.

Under Title 42, repeat border crossers generally have not been processed or faced legal consequences other than being returned across the U.S.-Mexico border. As a result, "*The number of total encounters overstates the number of unique people attempting to cross the border,*" according to U.S. Customs and Border Protection (CBP). "Prior to the pandemic, about one in eight border encounters involved a person previously encountered during the prior year. However, since CBP began expelling noncitizens under the CDC's Title 42 public health order to limit the spread of COVID-19, the repeat encounter rate jumped to more than *one in three encounters, including almost half of single adult encounters.*"⁴ The number of unique individuals encountered at the Southwest border increased only 30% between FY 2019 and 2021 even though "total" enforcement encounters increased 82%, according to CBP.⁵

If Title 42 had not been in effect, the number of Border Patrol apprehensions at the Southwest border likely would have been about 1.2 million in FY 2021 and less than 1.6 million in FY 2022, according to a National Foundation for American Policy analysis. (This assumes, for the analysis, no other changes.) NFAP arrived at these numbers

⁴ <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-operational-fiscal-year-2021-statistics>. Emphasis added.

⁵ Ibid.

The Historic Refugee Crisis In The Western Hemisphere

by estimating unique encounters for FY 2022, applying the reported FY 2021 rate, and utilizing the ratio of total encounters to unique encounters based on FY 2019 rates (pre-Title 42).

Due to Title 42, NFAP estimates there were approximately 471,000 more encounters at the Southwest border in FY 2021 and about 627,500 more encounters in FY 2022 than if the policy had not been in place.

Many news articles and critics of Biden administration policies have incorrectly stated there were a record number of apprehensions at the Southwest border in FY 2022. There were a record number of *encounters* at the Southwest border (2,214,652) in FY 2022. However, the statistic called “encounters” was rarely cited publicly before FY 2020 and includes “apprehensions” but also other interactions with U.S. Customs and Border Protection.

The record for Border Patrol “apprehensions” at the Southwest border was 1,643,679 in FY 2000. In FY 2000, the apprehensions were primarily of Mexican workers trying to evade Border Patrol agents. In FY 2021 and FY 2022, many of the encounters with Border Patrol agents involved non-Mexicans turning themselves in and seeking asylum. These individuals and families would not have encountered Border Patrol agents if they were allowed to apply for asylum at lawful ports of entry—something that generally was prohibited after Title 42 was implemented.

Historically, the most used statistic on Border Patrol activity has been “apprehensions,” defined as people who entered illegally and were at least briefly in Border Patrol custody. Beginning in March 2020, the main enforcement statistic reported became “encounters,” not “apprehensions.” The change was due to the start in March 2020 of expulsions from the United States using the public health section of the U.S. Code (generally referred to as Title 42). “Encounters” are not synonymous with “apprehensions.” According to U.S. Customs and Border Protection (CBP), “Beginning in March FY20, USBP Encounters statistics include both Title 8 Apprehensions and Title 42 Expulsions. Apprehensions refer to the physical control or temporary detainment of a person who is not lawfully in the U.S. which may or may not result in an arrest.”⁶

Encounters include four different types of interaction with CBP:

- Apprehensions by the Border Patrol;
- Expulsions by the Border Patrol under Title 42;
- People ruled ineligible for entry by CPB’s Office of Field Operations (OFO) at a port of entry; and
- Expulsions by Office of Field Operations under Title 42.

Comparing enforcement statistics before and after the implementation of Title 42 at the Southwest border is difficult. The Biden administration created a trap for itself by continuing to use Title 42 and allowing itself to be judged on the total number of encounters at the Southwest border.

⁶ <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

In January 2023, approximately two years after Joe Biden took office, MSNBC host Mehdi Hasan asked a guest, "Everyone, Democrats and Republicans alike, they say they want to get numbers down at the border, that's the underlying goal . . . What should we do to keep numbers down at the border? The argument is that there are record numbers coming at the border and that they are unsustainable numbers."⁷

The need to house or arrange care for large numbers of asylum seekers would have become apparent even if with a better metric. However, managing the humanitarian flow would have been easier if the Biden administration had allowed those seeking asylum to apply in an orderly, timed fashion at a lawful port of entry. The administration has tried to correct this with a phone app allowing individuals to receive scheduled appointments at a port. Enough people will need to be allowed to apply daily at ports of entry to make using the app a feasible alternative. Still, the idea is sound.

U.S. REFUGEE PROGRAM MOSTLY ABSENT FROM THE WESTERN HEMISPHERE

The Trump administration slashed U.S. refugee admissions and, in the process, dismantled the primary mechanisms for facilitating the entry of refugees into the United States. The Biden administration has yet to overcome these difficulties, despite showing a much greater willingness to accept refugees.

The Biden administration established a ceiling of 125,000 refugees in FY 2022 but resettled fewer than 26,000 refugees, approximately 100,000 below the ceiling. The refugee ceiling is also 125,000 in FY 2023, but to meet that level, "President Biden must make the resettlement program a priority, investing resources and political will in creative solutions to expedite processing," according to the National Immigration Forum's Danilo Zak.

Americans have offered their time as volunteers and money as sponsors to help those fleeing war and persecution in Afghanistan, Ukraine and elsewhere. The Biden administration has implemented the successful Uniting for Ukraine initiative that has allowed over 90,000 Ukrainians to be paroled into the United States with the help of U.S. financial sponsors, according to Michelle Hackman at the Wall Street Journal, with another 34,000 approved for travel. A more limited program was established for Venezuelans and then expanded to include Nicaraguans, Cubans and Haitians.⁸

⁷ <https://twitter.com/MehdiHasanShow/status/1612981237655769089>.

⁸ Adapted from: <https://www.forbes.com/sites/stuartanderson/2023/01/03/the-outlook-on-h-1b-visas-and-immigration-in-2023/?sh=5c3b10146980>.

The Historic Refugee Crisis In The Western Hemisphere

An omission in the past two years has been the almost complete absence of admitting refugees from the Western Hemisphere. Such a program, including circuit rides and support from UNHCR, could have discouraged individuals and families from taking the dangerous trip to the U.S.-Mexico border.

"The Biden-Harris Administration intends to welcome up to 20,000 refugees from Latin American and Caribbean countries during Fiscal Years 2023 and 2024, putting the United States on pace to *more than triple* refugee admissions from the Western Hemisphere this Fiscal Year alone," according to an administration Fact Sheet. "This delivers on the President's commitment under the *Los Angeles Declaration for Migration and Protection* to scale up refugee admissions from the Western Hemisphere." ⁹

A HEMISPHERE-WIDE PROBLEM

Advocates of harsher immigration policies have ignored that refugees leaving Venezuela and elsewhere have settled in or traveled to several countries across the Western Hemisphere—many in much larger numbers than in the United States. In other words, people did not leave Venezuela because of the Biden administration's immigration policies. Most refugees from Venezuela left their country long before Joe Biden became president.

More than 7.1 million refugees and migrants have left Venezuela, a number on par with the level of Ukrainian refugees who have fled the most intense warfare seen in Europe since World War II, according to the United Nations High Commissioner for Refugees (UNHCR). Approximately 1.8 million Venezuelans have gone to Colombia, 1.3 million to Peru, 514,000 to Ecuador, 465,000 to the United States, 448,000 to Chile, 418,000 to Spain, 345,000 to Brazil and another 400,000 have gone to Argentina, Panama and the Dominican Republic, reports UNHCR. ¹⁰

Table 1
Venezuelan Refugees in the Western Hemisphere

Country	Venezuelan Refugees
Colombia	1.8 million
Peru	1.3 million
Ecuador	514,000
United States	465,000
Chile	448,000
Spain	418,000
Argentina, Panama and the Dominican Republic	400,000
Brazil	345,000

Source: United Nations High Commissioner for Refugees.

⁹ <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/05/fact-sheet-biden-harris-administration-announces-new-border-enforcement-actions/>.

¹⁰ <https://data.unhcr.org/en/documents/details/93629>.

The Historic Refugee Crisis In The Western Hemisphere

According to a UNHCR report on Venezuelans, “Half of all refugees and migrants in the region cannot afford three meals a day and lack access to safe and dignified housing. To access food or avoid living on the streets, many Venezuelans resort to survival sex, begging or indebtedness.”

The Biden administration has acknowledged this is a hemisphere-wide problem, but until recently, has provided little public emphasis. A Department of Homeland Security fact sheet issued in January 2023 stated, “Countries across the Western Hemisphere are delivering on their commitments under the *Los Angeles Declaration* to expand legal immigration pathways. Colombia, Ecuador, Costa Rica, and Belize are each implementing new regularization or temporary protection policies to provide legal status to hundreds of thousands of migrants. Canada, Mexico, and Spain have expanded refugee resettlement and temporary work opportunities. Mexico and Guatemala have also significantly grown their asylum system. Individuals are encouraged to avail themselves of this wide range of legal pathways in the region and avoid the dangerous consequences of irregular migration.”¹¹

HISTORICAL DATA ON “OTHER THAN MEXICO” SHOW REFUGEE CRISIS

U.S. Border Patrol apprehensions and encounters at the Southwest border of individuals from countries Other Than Mexico (OTM) document the flow of refugees in the Western Hemisphere. In FY 2000, only 1.7% of the apprehensions at the Southwest border were of non-Mexicans, compared to 81% in FY 2019 (mostly Central Americans), and 64% and 67% of Border Patrol encounters in FY 2021 and FY 2022.

Title 42 expulsions of repeat border crossers from Mexico likely caused the FY 2021 and FY 2022 “encounters” to have a lower percentage of non-Mexicans than otherwise. The Border Patrol reported an increase in repeat crossers due to the lack of consequences for those sent back across the border under Title 42.

Starting in the 20th century—and until recently—illegal entry at the Southwest border involved primarily Mexicans crossing unlawfully to seek work. This changed beginning in 2010 when violence and economic hardship drove Central Americans to the United States in large numbers. (Civil wars and violence in the 1980s also pushed Central Americans to the U.S.) In FY 2010, 11.4% of Southwest border apprehensions were Other Than Mexico, far higher than the 1.7% for non-Mexicans in FY 2000. In FY 2012, the proportion of non-Mexicans increased to 26.5% and rose steadily to over 50% of Southwest border apprehensions in all but one year between FY 2014 and FY 2018.

¹¹ <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/05/fact-sheet-biden-harris-administration-announces-new-border-enforcement-actions/>.

The Historic Refugee Crisis In The Western Hemisphere

In FY 2019, over 80% of Southwest border apprehensions were of non-Mexicans. Although there was an increase in apprehensions of Brazilians between FY 2002 and FY 2015, apprehensions of non-Mexicans during those years and through FY 2019 were primarily of Hondurans, Guatemalans and Salvadorans.

Table 2
Southwest Apprehensions By Border Patrol Agents (Includes All Encounters After March 2020)

Fiscal Year	Mexico	Other Than Mexico (OTM)	Total	Percent Other Than Mexico
2000	1,615,081	28,598	1,643,679	1.7%
2001	1,205,389	30,328	1,235,717	2.5%
2002	901,761	28,048	929,809	3.0%
2003	865,850	39,215	905,065	4.3%
2004	1,073,468	65,814	1,139,282	5.8%
2005	1,016,409	154,987	1,171,396	13.2%
2006	973,819	98,153	1,071,972	9.2%
2007	800,634	58,004	858,638	6.8%
2008	653,035	51,970	705,005	7.4%
2009	495,582	45,283	540,865	8.4%
2010	396,819	50,912	447,731	11.4%
2011	280,580	46,997	327,577	14.3%
2012	262,341	94,532	356,873	26.5%
2013	265,409	148,988	414,397	36.0%
2014	226,771	252,600	479,371	52.7%
2015	186,017	145,316	331,333	43.9%
2016	190,760	218,110	408,870	53.3%
2017	127,938	175,978	303,916	57.9%
2018	152,257	244,322	396,579	61.6%
2019	166,458	685,050	851,508	80.5%
2020	253,118	147,533	400,651	36.8%
2021	608,037	1,051,169	1,659,206	63.4%
2022	738,780	1,467,656	2,206,436	66.5%

Source: U.S. Border Patrol, National Foundation for American Policy. Includes all encounters after March 2020.

Table 3
U.S. Border Patrol Encounters At The Southwest Border: FY 2020 to FY 2022

Country	FY 2020	FY 2021	FY 2022
Venezuela	1,227	47,752	187,286
Nicaragua	2,123	49,841	163,552
Cuba	9,822	38,139	220,321
Haiti	4,395	45,532	29,004
Colombia	295	5,838	124,540
El Salvador	16,484	95,692	93,196
Honduras	40,091	308,931	199,186
Guatemala	47,243	279,033	228,220

Source: U.S. Border Patrol, National Foundation for American Policy tabulation of CBP monthly data files.

Due to Covid-19, fewer people attempted to enter the United States in FY 2020. That pent-up demand and worsening conditions in other countries started a larger flow of refugees from a wider group of countries. In a 2022 report, the Department of Homeland Security compared the average number of Southwest border “encounters” in FY 2021 to the average for FY 2014 to FY 2019 for several countries.¹² As noted, encounters are not identical to apprehensions. The data showed an increase of 1,285% for Nicaraguans, 3,132% for Venezuelans, 2,136% for Ecuadorians, 1,425% for Haitians, 928% for Brazilians and 159% for Cubans. Border Patrol encounters increased for individuals from these countries in FY 2022.

WORSENING HUMAN RIGHTS IN VENEZUELA, NICARAGUA, CUBA AND HAITI

Human rights reports on Venezuela, Nicaragua, Cuba and Haiti explain why refugees have fled those nations in search of greater freedom, protection and opportunity for their families. Freedom House rates all four countries as “not free.” U.S. State Department reports also criticize the human rights situation in Venezuela, Nicaragua, Cuba and Haiti.

Venezuela: “Venezuela’s democratic institutions have deteriorated since 1999, but conditions have grown sharply worse in recent years due to harsher crackdowns on the opposition and the ruling party relying on widely condemned elections to control all government branches,” according to Freedom House. “The authorities have closed off virtually all channels for political dissent, restricting civil liberties and prosecuting perceived opponents without regard for due process. The country’s severe humanitarian crisis has left millions struggling to meet basic needs, and driven mass emigration.”¹³

¹² https://www.dhs.gov/sites/default/files/2022-09/2022_0818_plcy_southwest_border_enforcement_report_fy_2021.pdf.

¹³ <https://freedomhouse.org/country/venezuela/freedom-world/2022>.

The Historic Refugee Crisis In The Western Hemisphere

Venezuelans have experienced a historic economic collapse and widespread human rights violations that have caused more than 7.1 million refugees and migrants to leave the country. (That number is similar to the number of refugees Russia created after invading Ukraine in 2022.) U.S. Border Patrol encounters at the Southwest border with Venezuelans increased from 1,227 in FY 2020 to 47,752 in FY 2021 and 187,286 in FY 2022, an increase of 15,164% between FY 2020 and FY 2022.

According to the U.S. State Department's country report on human rights in Venezuela, "Significant human rights issues included credible reports of: unlawful or arbitrary killings, including extrajudicial killings by regime forces; forced disappearances by the regime; [and] torture and cruel, inhuman, and degrading treatment by security forces."¹⁴

"The economy went into a tailspin because the government tried to control society by taking away economic rights," according to Ricardo Hausmann, founder and Director of Harvard's Growth Lab and a professor at the Harvard Kennedy School. "In the middle of the oil boom, the government thought, I have enough money coming from oil, so I don't need the private sector. In fact, I can expropriate the private sector. I can put all sorts of controls on the private sector and make it obey. Many people decided that under those conditions, it was not possible to dream, to plan, to invest, to do things in Venezuela, and people started to leave."¹⁵

"To keep power, the government disempowered people, taking away their civil, political and human rights," he said. "So, the human rights situation in Venezuela is catastrophic, but it is catastrophic because the government has maintained itself in power despite having engineered the largest peacetime economic collapse in human history." To put the human rights situation in context, Hausmann notes, "Venezuela is a unique case of an economic catastrophe. It's the only country in peacetime able to engineer a decline in GDP [Gross Domestic Product] of 80%." He compares that to a GDP decline of 28% during the Great Depression in the United States and a 50% drop in GDP in Germany during World War II. Hausmann served as chief economist at the Inter-American Development Bank (1994-2000), and as a member of the Board of the Central Bank of Venezuela and an economics professor in Caracas.

When oil prices were high in the years before 2015, Venezuela's socialist government took on more debt rather than saving money. When oil prices collapsed, the government lost access to financing. To keep servicing the debt, the government reduced imports. That resulted in a collapse in the supply of food, medicine, and intermediate

¹⁴ <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/venezuela/>.

¹⁵ This section is adapted from Stuart Anderson, "Venezuelans Propelled To U.S. By Crisis, Not Immigration Policy," *Forbes*, December 14, 2022. <https://www.forbes.com/sites/stuartanderson/2022/12/14/venezuelans-propelled-to-us-by-crisis-not-immigration-policy/?sh=1d100ca036f3>.

The Historic Refugee Crisis In The Western Hemisphere

inputs, including spare parts, seed, fertilizers and other items needed to keep the economy going and prevent people from starving.

In December 2015, Venezuelans voted for a two-thirds majority for the opposition in the National Assembly. However, the government of Venezuelan president Nicolás Maduro unconstitutionally changed the Supreme Court, and the court later removed legislative powers from the National Assembly. After that, people had no hope their situation would improve, according to Hausmann. That's when the migration out of Venezuela began in earnest.

Nicaragua: The situation in Nicaragua has caused people to flee. "The election of Sandinista leader Daniel Ortega in 2006 began a period of democratic deterioration marked by the consolidation of all branches of government under his party's control, the limitation of fundamental freedoms, and unchecked corruption in government," writes Freedom House. "In 2018, state forces, with the aid of informally allied armed groups, responded to a mass antigovernment movement with violence and repression. The rule of law collapsed as the government moved to put down the movement, with rights monitors reporting the deaths of at least 325 people, extrajudicial detentions, disappearances, and torture. Since then, antigovernment activists report surveillance and monitoring, and Ortega has consolidated his power with sweeping arrests of his political opponents."¹⁶

U.S. Border Patrol encounters at the Southwest border with Nicaraguans increased from 2,123 in FY 2020 to 49,841 in FY 2021 and 163,552 in FY 2022, an increase of 7,604% between FY 2020 and FY 2022.

Cuba: Cubans have fled their country and its communist government for over 50 years. "Cuba's one-party communist state outlaws political pluralism, bans independent media, suppresses dissent, and severely restricts basic civil liberties," according to Freedom House. "The government continues to dominate the economy despite recent reforms that permit some private-sector activity. The regime's undemocratic character has not changed despite a generational transition in political leadership between 2018 and 2021 that included the introduction of a new constitution."¹⁷

"Cuba is an authoritarian state," according to the U.S. State Department's country report on human rights in Cuba. "The 2019 constitution codifies that Cuba remains a one-party system in which the Communist Party is the only legal political party. On April 19, President Miguel Diaz-Canel replaced former president Raul Castro as first secretary of the Communist Party, the highest political entity of the state by law. Elections were neither free nor fair nor competitive. . . Significant human rights issues included credible reports of: unlawful or arbitrary killings, including extrajudicial killings, by the government; forced disappearance by the government; torture and cruel,

¹⁶ <https://freedomhouse.org/country/nicaragua/freedom-world/2022>.

¹⁷ <https://freedomhouse.org/country/cuba/freedom-world/2022>.

The Historic Refugee Crisis In The Western Hemisphere

inhuman, and degrading treatment of political dissidents, detainees, and prisoners by security forces; harsh and life-threatening prison conditions; arbitrary arrests and detentions [and] political prisoners." ¹⁸

U.S. Border Patrol encounters with Cubans increased from 9,822 in FY 2020 to 38,139 in FY 2021 and 220,321 in FY 2022, an increase of 2,143% between FY 2020 and FY 2022.

Haiti: Between FY 2020 and FY 2022, U.S. Border Patrol encounters increased 560% for Haitians as more people fled the country. According to the BBC, "In Port-au-Prince you cannot see the boundaries, but you must know where they are. Your life may depend on it. Competing gangs are carving up the Haitian capital, kidnapping, raping, and killing at will. They demarcate their territory in blood. Cross from one gang's turf to another, and you may not make it back." ¹⁹

"In effect the state is missing in action, as the people suffer overlapping crises," reports the BBC. "Almost half the population - 4.7 million Haitians - are facing acute hunger. In the capital around 20,000 people are facing famine-like conditions, according to the UN. This is a first for the Americas. Cholera has made a deadly comeback. But armed gangs are the greatest plague." ²⁰

"Worsening breakdowns of the Haitian electoral system in recent years have led to a series of expired mandates and constitutional impasses, leaving citizens without proper political representation," writes Freedom House. "Rampant corruption and violence by armed criminal groups undermine basic services and contribute to physical insecurity for the population. The judiciary and law enforcement agencies lack the resources, independence, and integrity to uphold due process and the rule of law. Antigovernment protests often result in excessive use of force by police." ²¹

ASYLUM TRANSIT BAN REGULATION

A proposed Biden administration regulation (yet to be written) would "provide that individuals who circumvent available, established pathways to lawful migration, and also fail to seek protection in a country through which they traveled on their way to the United States, will be subject to a rebuttable presumption of asylum ineligibility in the United States." ²²

¹⁸ <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/cuba/>.

¹⁹ <https://www.bbc.com/news/world-latin-america-63707429>.

²⁰ <https://www.bbc.com/news/world-latin-america-63707429>.

²¹ <https://freedomhouse.org/country/haiti/freedom-world/2022>.

²² <https://www.washingtonpost.com/made-by-history/2023/01/23/bidens-announced-asylum-transit-ban-undermines-access-life-saving-protection/>.

The Historic Refugee Crisis In The Western Hemisphere

"These two reasons to bar people from seeking asylum for transiting through other countries and for crossing the U.S. border without authorization—have different rationales and historical origins," according to Yael Schacher, a senior U.S. advocate at Refugees International. "But both have been marshaled against Central Americans since the late 1980s — severely undermining access to asylum. Doing so endangers people's lives and breaks U.S. and international law. History reveals the purpose and perils of such bars."²³

PAROLE PROGRAM AT RISK

Texas Attorney General Ken Paxton and other Republican attorneys general filed a lawsuit over the parole program with the same U.S. district judge who blocked another significant Biden administration immigration measure. While the parole program appears to be on sound legal grounds, by halting it for a year or more, the lawsuit could prevent a successful way of providing a legal path for those escaping oppressive conditions.

In addition, the parole program is part of an agreement with Mexico, a foreign policy tradeoff. "Mexico has agreed to accept up to 30,000 migrants each month from the four countries who attempt to walk or swim across the U.S.-Mexico border and are turned back," reports PBS. "[T]he U.S. cannot easily send back people from those four countries for a variety of reasons that include relations with the governments there." The Mexican government only decided to accept more expelled migrants after Biden implemented the parole program. If the parole program is blocked, more individuals would be released into the U.S. rather than returned to Mexico, which those filing the lawsuit would not want.

Members of Congress and others who oppose the Biden administration's parole program did not object to the Trump administration largely dismantling the U.S. refugee program, making it more difficult to use today. Most of these critics also have not advocated for other legal ways for people escaping oppressive governments to enter America. Without paths to enter lawfully, it is inevitable that more people will cross into the U.S. illegally.

THE TRUMP ADMINISTRATION

Donald Trump's policies did not reduce illegal immigration or discourage people from applying for asylum. Pending asylum cases rose 300% between FY 2016 and FY 2020 (from 163,451 to 614,751), according to Syracuse University's TRAC. Apprehensions at the Southwest border (a proxy for illegal entry) rose more than 100% between FY 2016 and FY 2019 (from 408,870 to 851,508). Apprehensions fell for several months at the start of the Covid-19 pandemic, but by August and September 2020, apprehensions returned to the approximate level of illegal entry for the same months in FY 2019.

²³ Ibid.

NATIONAL FOUNDATION FOR AMERICAN POLICY

Page 16

The Historic Refugee Crisis In The Western Hemisphere

CONCLUSION

Addressing and labeling the situation at the border as a refugee crisis shifts the focus to helping people. Providing the legal means of seeking relief by at least partly opening ports of entry and the recent parole programs accepting up to 30,000 Venezuelans and others a month has already reduced illegal entry. Taking these actions sooner would have helped the situation. Providing more opportunities to work legally with visas and implementing a widescale refugee program with circuit rides and camps organized by UNHCR, the UN Refugee Agency, would be reasonable additional steps.

Treating people humanely is not a sign of weakness. Allowing for orderly entry is a smart policy consistent with America's best tradition as a nation of immigrants and refugees.

NATIONAL FOUNDATION FOR AMERICAN POLICY

Page 17

The Historic Refugee Crisis In The Western Hemisphere

ABOUT THE AUTHOR

Stuart Anderson is Executive Director of the National Foundation for American Policy, a non-profit, non-partisan public policy research organization in Arlington, Va. Stuart served as Executive Associate Commissioner for Policy and Planning and Counselor to the Commissioner at the Immigration and Naturalization Service from August 2001 to January 2003. He spent four and a half years on Capitol Hill on the Senate Immigration Subcommittee, first for Senator Spencer Abraham and then as Staff Director of the subcommittee for Senator Sam Brownback. Prior to that, Stuart was Director of Trade and Immigration Studies at the Cato Institute in Washington, D.C., where he produced reports on the military contributions of immigrants and the role of immigrants in high technology. He has an M.A. from Georgetown University and a B.A. in Political Science from Drew University. Stuart has published articles in the *Wall Street Journal*, *New York Times*, *Los Angeles Times*, and other publications. He is the author of the book *Immigration* (Greenwood, 2010).

ABOUT THE NATIONAL FOUNDATION FOR AMERICAN POLICY

Established in 2003, the National Foundation for American Policy (NFAP) is a 501(c)(3) non-profit, non-partisan public policy research organization based in Arlington, Virginia, focusing on trade, immigration and related issues. Advisory Board members include Columbia University economist Jagdish Bhagwati, Cornell Law School professor Stephen W. Yale-Loehr, Ohio University economist Richard Vedder and former INS Commissioner James Ziglar. Over the past 24 months, NFAP's research has been written about in the *Wall Street Journal*, the *New York Times*, the *Washington Post*, and other major media outlets. The organization's reports can be found at www.nfap.com. Twitter: [@NFAPResearch](https://twitter.com/NFAPResearch)

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**DEFENDANT'S
EXHIBIT**

CASE NO. 6:23-CV-0007

EXHIBIT NO. 085

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

STATE OF TEXAS, *et al.*,

Plaintiffs,

vs.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, *et al.*,

Defendants, and

VALERIE LAVEUS, *et al.*,

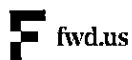
Intervenor Defendants.

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CIVIL ACTION No.  
6:23-CV-00007

**JUDGE DREW B. TIPTON**

**INTERVENOR DEFENDANTS’  
TAB 85, ECF 175-20**



POLICY & REPORTS / REPORTS / NEWS / DIGNITY / IMMIGRATION / LEGAL AVENUES

# Immigration parole has added 450,000 workers *to industries with critical labor shortages*

Humanitarian parole likely accounted for about a quarter of labor shortage decreases in 2022

APRIL 20TH, 2023



Viktoria Taranto, a Ukrainian war veteran and refugee, works with Dermatologist Dr. Navin Arora, at Borealis Dermatology in Garden City, New York.

*“The Biden Administration’s recent use of immigration parole authority has also had the unintended effect of helping the U.S. economy address severe labor shortages.”*

The Biden Administration’s recent use of immigration parole authority has proven not only a compassionate response to people seeking safety and refuge, but has also had the unintended effect of helping the U.S. economy address severe labor shortages in 2022.

Immigration parole authorizes government officials under the guidance of the Administration to allow, case by case, individuals to temporarily enter the U.S. and receive temporary protection. This is particularly useful in light of ongoing restrictive policies, such as Title 42 or the proposed asylum ban, which make entering the U.S. and applying for relief nearly impossible for many people seeking asylum. Immigration parole is a timely, legal immigration tool that has let the U.S. extend urgent humanitarian relief to individuals fleeing some of the world’s most dangerous situations, arriving by air or walking by foot to seek safety for themselves and their families in the U.S.

**EXHIBIT  
19**

Immigration parole is granted if immigration authorities determine there are “urgent humanitarian reasons or significant public benefit.” Paroled individuals may enter the U.S. legally, be protected from deportation, and, in certain circumstances, can apply for work authorization. In recent years, the Biden Administration has exercised parole authority to admit some individuals fleeing war and dangerous conditions. After the U.S. withdrawal from Afghanistan, Operation Allies Welcome was responsible for the rapid relocation of more than 75,000 Afghans in 2021 and 2022. Families and communities across the U.S. have welcomed Afghan families with generosity. Similarly, in 2022, the Uniting for Ukraine parole policy permitted some 115,000 Ukrainians to enter the U.S. after they were sponsored by U.S. individuals at their own expense. The U.S. also paroled some individuals arriving at the southwest border seeking asylum, but who were ineligible to enter the U.S. because of Title 42.

***“Paroled adults entering the U.S. workforce by the start of 2023 contributed to about 25% of the decrease, on aggregate, in total job openings in these shorthanded industries.”***

While parole is intended to provide relief to people seeking safety, it also benefits the U.S. as these adults bring an array of talents and skills that they can contribute to U.S. communities. Thousands of carpenters, medical workers, and manufacturers, among many other skilled individuals, have been admitted into the U.S. through immigration parole in recent months. With work authorizations available through immigration parole, these skills, among others held by those granted parole, can be used to contribute to U.S. communities in a variety of vocations. New FWD.us estimates show that people recently granted parole—largely from Afghanistan, Ukraine, and Latin American countries—have had a profoundly positive impact on our economy, particularly at a time when worker shortages have contributed to soaring inflation. These results affirm that smart immigration policy can provide vital relief, promote order, and benefit the U.S. all at the same time.

**FWD.us estimates some 450,000 paroled adults who entered the U.S. in 2021 and 2022 are likely working in industries with labor shortages, with some of the highest numbers occurring in construction (93,000), accommodation and food services (70,000), retail trade (53,000), professional and business services (51,000), manufacturing (49,000), transportation, warehousing, and utilities (49,000), and healthcare (31,000).** With about two open positions for every unemployed person in the U.S. during most of 2022, these individuals have met an economic need that will likely persist for years, all without displacing American workers.

**ADULTS GRANTED PAROLE ARE CONTRIBUTING TO INDUSTRIES WITH WORKER SHORTAGES**

*Estimated number of paroled adults during 2021 and 2022, by likely industry of employment*

| INDUSTRIES WITH LABOR SHORTAGES    | ESTIMATED NUMBER OF WORKERS GRANTED PAROLE IN 2021-2022 |
|------------------------------------|---------------------------------------------------------|
| Construction                       | 93,000                                                  |
| Accommodation and food services    | 70,000                                                  |
| Retail trade                       | 53,000                                                  |
| Professional and business services | 51,000                                                  |
| Manufacturing                      | 49,000                                                  |

| INDUSTRIES WITH LABOR SHORTAGES        | ESTIMATED NUMBER OF WORKERS GRANTED PAROLE IN 2021-2022 |
|----------------------------------------|---------------------------------------------------------|
| Transportation, warehousing, utilities | 49,000                                                  |
| Healthcare and social assistance       | 31,000                                                  |
| Other services                         | 24,000                                                  |
| Other industries                       | 30,000                                                  |
| TOTAL                                  | 450,000                                                 |

Sources: FWD.us analysis of U.S. Customs and Border Protection and augmented 2021 American Community Survey data.

Note: Estimates rounded to thousands. Industries with an estimated 10,000 or more paroled workers shown. See Methodology section below for details.

**Consequently, paroled adults entering the U.S. workforce by the start of 2023 contributed to about 25% of the decrease, on aggregate, in total job openings in these shorthanded industries since the labor shortage peak in 2022.** Although the direct link between the filling of job vacancies by paroled adults and more tempered inflation rates cannot be made, it is likely that newly arrived individuals helped to ease inflation through workforce expansion in these industries challenged by labor shortages.

***“Some 170,000 people anticipated to be paroled into the U.S. through the CHNV parole policy will likely work in industries experiencing current labor shortages.”***

This exercise of humanitarian parole authority during the past two years not only provided refuge for those needing protection, but simultaneously met an economic need in our country. While we have continued to recover from the COVID-19 pandemic, demand for goods and services have increased dramatically, causing significant labor shortages. These historically high job openings were filled in part by adults who were admitted through parole, allowing people across the U.S. to continue accessing vital care in medical centers, dine in restaurants, enjoy vacations, build homes, and buy groceries.

Following the success of the Uniting for Ukraine policy, the Biden Administration is permitting people in the U.S. to sponsor individuals from Cuba, Haiti, Nicaragua, and Venezuela (CHNV) for humanitarian parole. The Administration will permit 30,000 people to enter from this combined group of countries each month in 2023, for a maximum of 360,000 this year. After the implementation of this parole policy, Customs and Border Protections reported that encounters of individuals from Cuba, Haiti, Nicaragua, or Venezuela between ports of entry at the southwest border fell from an average of 1,231 per day in January to only 46 per day by the end of February, a 98% decline.

**FWD.us estimates that some 170,000 adults anticipated to be paroled into the U.S. through the CHNV parole policy will likely work in industries experiencing current labor shortages.**

Several Republican-led state governors have sued the Biden Administration to halt the CHNV policy, even though they have benefited from these same humanitarian policies. The important and shortsighted thing is these states have seen their worker rolls and tax coffers bolstered by the same policy they are trying to end. For example,

FWD.us estimates that some 96,000 paroled adults in Florida and another 45,000 in Texas are working in industries with national labor shortages. A stoppage in the CHNV policy would not only lead to tens of thousands of individuals needing refuge unable to enter the U.S., but also further hamper our economy in cooling inflation due to labor shortages.

Humanitarian parole has proven very successful for paroled individuals and the U.S. alike. The Biden Administration should continue to use humanitarian parole as a policy tool, strengthening and improving it to meet an even greater number of humanitarian needs.

For example, the Administration should not be afraid to expand parole allowing applications from individuals from other countries facing humanitarian crises.

Congress can also get involved. Creating new legal pathways to meet employment demands in the U.S., as well as more humanitarian avenues for those seeking refuge, could reduce the number of arrivals at the southern border and allow for a more orderly immigration process. By expanding legal pathways the U.S. can also further harness the skills and talents of people who have benefitted from humanitarian parole, can more greatly propel the economy forward, and strengthen communities across the country. Congress must also do its part by passing legislation, like the bipartisan Afghan Adjustment Act, that provides permanent protections for individuals who have received parole and have served as critical members of communities across the United States for some time.

**Over the decades, the U.S. has offered safety to millions of individuals seeking refuge. Some of those welcomed to the U.S. have become leaders in technology, business, and politics. We must continue to maintain and find new pathways to expeditiously process those in unsafe situations to live in the U.S. with their families, while also providing them the tools and opportunities to contribute to American communities.**

#### Methodology (click + to expand)

Population totals for paroled groups were drawn from various sources. The total Afghanistan paroled population is from the Department of Homeland Security (DHS), and distributed into age and gender categories as listed in this news article. The total Ukrainian paroled population is drawn from this news article with age and gender categories drawn from the distribution of similar refugees in Europe drawn from United Nations High Commissioner for Refugees (UNHCR) data. The total population paroled via the U.S. Southwestern border is based on Title 8 entry data from Customs and Border Protection for ports of entry and between ports of entry by nationality for calendar years 2021 and 2022. Publicly available micro-level data from the U.S. Border Patrol for fiscal 2021 permitted breakdown of parole rates by nationality and demographic group for all Title 8 encounters.

Labor force participation rates in selected industries with labor shortages were drawn from immigrants that entered the U.S. between 2017 and 2021, according to the 2021 American Community Survey (ACS). These rates were calculated for each nationality and gender group of adults to estimate the total adult population that are likely

working in industries with labor shortages. The estimates operate under the assumption that newly arrived paroled immigrants will work at the same rate and industries as co-nationals entering in recent years.

Breakdowns for paroled immigrants working in industries with national labor shortages by state (for example, Florida and Texas) are drawn from the 2021 ACS for immigrants from selected nationalities, are working in labor shortage industries, and entered the U.S. between 2017 and 2021.

Industries of employment for future individuals granted parole from Cuba, Haiti, Nicaragua, and Venezuela are estimated in a similar way as listed above. The country breakdown for the potential 360,000 individuals is based on those paroled from these same countries in 2021 and 2022, and further disaggregated by gender and age shares of immigrants from the same countries arriving between 2017 and 2021.

Industries with labor shortages are drawn from the Bureau of Labor Statistics and reflect industry-level estimates for March 2022 with a 5% or higher job openings rate. March 2022 was the peak month of total job openings in the U.S. The comparative time frame is nearly one year later, in February 2023, and was the lowest level of job openings since the 2022 peak.

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**Phillip Connor**  
*Senior Demographer*

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101-157  
AC 330-3

**DEFENDANT'S  
EXHIBIT**

CASE  
NO. 6:23-cv-00007

EXHIBIT  
NO. 086

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

STATE OF TEXAS, *et al.*,

*Plaintiffs,*

vs.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, *et al.*,

*Defendants, and*

VALERIE LAVEUS, *et al.*,

*Intervenor Defendants.*

[illegible]

CIVIL ACTION No.  
6:23-CV-00007

JUDGE DREW B. TIPTON

**INTERVENOR DEFENDANTS’  
TAB 86, ECF 175-21**

## Austin American-Statesman

SERVING OUR COMMUNITY SINCE 1871

**YOUR VOICE | Opinion** This piece represents a collection of opinions from various sources, separate from those of this publication.

# Opinion: The tools to tackle Texas' labor shortage

**Justin Yancy**

Published 7:00 a.m. CT July 8, 2022

I recently sat down with policy leaders from across the country at a meeting hosted by Business Roundtable in Washington, D.C. As you can imagine, the economy and workforce were top of mind for all of us.

Employers statewide are having varying levels of difficulty finding skilled workers. While there's no one tool that can alleviate this nationwide challenge, there is a toolbox.

Take the Texas Reskilling and Upskilling through Education (TRUE) initiative, for example. This tool was passed by the Texas Legislature in 2021 and focuses on bringing industry and education together to launch or upgrade industry-aligned, high-demand career programs that can be completed in six months or less. Under TRUE, Texas has already directed \$26 million to skills training at 46 colleges and multi-college collaboratives across the state, with \$15 million more recently announced. TRUE also aligns with Texas' Building a Talent Strong Texas strategic plan, which seeks to ensure that, by 2030, 60% of Texans have a postsecondary credential of value, whether that credential is a degree, certificate, or industry-based certification.

Another tool that needs to be highlighted is work-based learning – specifically youth apprenticeships. The Texas Workforce Commission, in conjunction with the Texas Education Agency and the Texas Higher Education Coordinating Board, is doing great work in developing and promoting work-based learning programs around the state. These programs allow high school students to receive paid on-the-job training at companies of all types, from manufacturing to finance, that can lead to great jobs and will improve their chances of success. According to the data from the U.S. Department of Labor, as of 2020, well over one-third of Texas' apprenticeships are for those aged 25 and younger. Employers have the opportunity to work with these motivated students while building their own talent pipelines at the same time.

**EXHIBIT  
20**

Lucky for Texas, we have motivated organizations such as Educate Texas, regional workforce boards, and the Texas Association of Community Colleges working together with employers -- like our members at the Texas Business Leadership Council -- to create certification and career opportunities.

I can't help but mention one last tool we could have in our economic toolbox: a common-sense immigration system. It is time for Congress to act by embracing sound policy that will allow DACA recipients permanent legal status, and allow for additional agricultural workers and engineers alike, all while doing more to maintain a secure border.

As you can see, my first tools are fairly non-political; unfortunately, immigration and visa policies are always political. What's frustrating is that it doesn't need to be. All we are talking about is establishing legal, transparent and efficient means to improve our workforce and tax base. A tax base which DACA and DACA-eligible recipients paid in an estimated \$244 million to state and local governments in 2018.

The way immigration is discussed is very often at odds with the reality on the ground. The reality is that we need good hard-working people, at all skill levels, to help keep the Texas economic engine running. According to data from the American Immigration Council, immigrants make up almost 20% of transportation workers in the U.S. and more than 13% of health care workers -- one of the most in-demand career fields in the country. With Baby Boomers leaving the workforce and using more health care services, immigration is and will continue to be an economic and workforce issue.

Texas cannot prosper on its good looks alone. We are constantly developing new tools to address our educational, workforce and economic challenges, but we need the political will to bridge the gaps. It takes sound public policy, strong implementation of that policy, and all Texans working together to keep us moving forward.

*Yancy is president of the Texas Business Leadership Council.*



5 of 157

AD 880'S

**DEFENDANT'S  
EXHIBIT**

CASE  
NO. 6:23-cv-00007

EXHIBIT  
NO. 087

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

STATE OF TEXAS, *et al.*,

*Plaintiffs,*

vs.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, *et al.*,

*Defendants, and*

VALERIE LAVEUS, *et al.*,

*Intervenor Defendants.*

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CIVIL ACTION No.
6:23-CV-00007

JUDGE DREW B. TIPTON

**INTERVENOR DEFENDANTS’
TAB 87, ECF 175-22**

Restaurants face labor shortages amid back-to-school season

axios.com/local/austin/2022/09/19/restaurants-labor-shortages-back-to-school-season

September 19, 2022

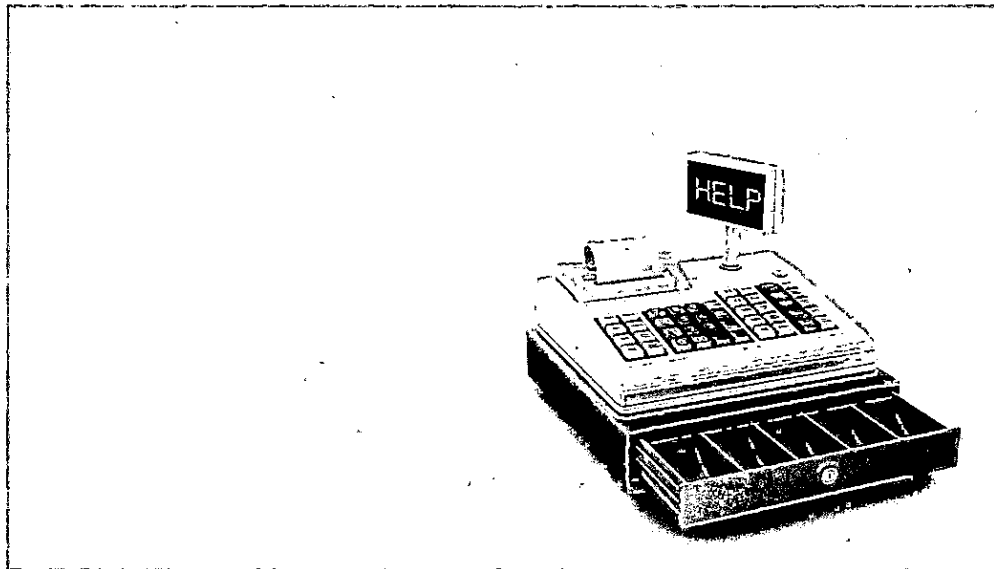
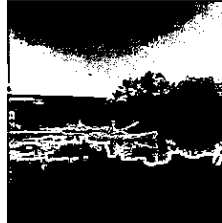


Illustration: Aida Amer/Axios

With Texas students headed back to school, already short-staffed restaurants are losing much-needed workers.

Why it matters: The local leisure and hospitality industry has more employees than ever before, but restaurants are still struggling to bounce back from the pandemic, and labor shortages across the industry — now coupled with higher costs for *everything* — continue to hurt business.

What's happening: Recent data from the Texas Restaurant Association found that just over two-thirds of the state's restaurant operators do not have enough employees to support customer demand.

The group surveyed restaurants from July 14-Aug. 5.

EXHIBIT
21

What they're saying: The figure has remained fairly consistent in recent years, but back-to-school season tends to exacerbate those shortages, according to Kelsey Erickson Streufert, spokesperson for the Texas Restaurant Association.

"We're an industry that does rely quite heavily on students and young people — summer jobs, part-time jobs," Erickson Streufert said. "At the same time, [customer] demand tends to fall pretty significantly around this back-to-school time."

Zoom out: Restaurants nationwide are wrestling with worker shortages as students return to classrooms.

Nationally, 60% of restaurants have reduced hours of operation, while 38% are closed on days they would normally be open, according to August figures from the National Restaurant Association.

The good news: Texas' rapid growth has allowed the leisure and hospitality workforce to surpass pre-pandemic levels, according to U.S. Bureau and Labor Statistics data.

- The Austin area employed 140,000 leisure and hospitality employees in July 2022, the latest data available, up from roughly 137,000 during the same period in 2019.
- **Yes, but:** Demand has grown significantly, and employee growth hasn't been enough to meet restaurants' needs, Erickson Streufert said.

What to watch: The gaping holes in the labor market locally and nationwide are forcing business owners to increase wages and provide other incentives, like more vacation days, to attract — and retain — employees.



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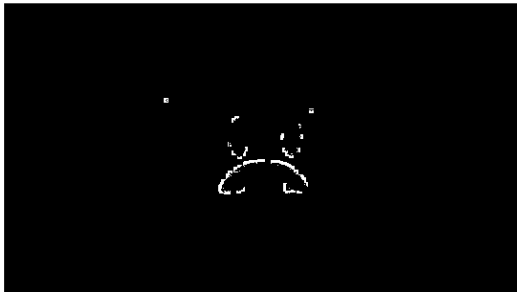


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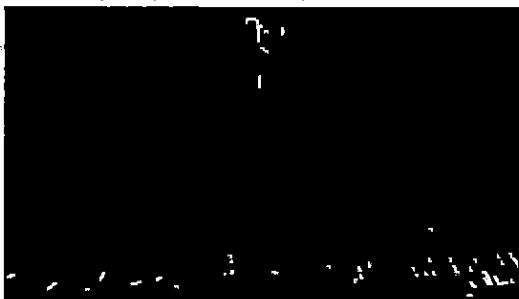


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6/19/23, 6:55 PM Case 6:23-cv-00007 Document 175-22 Filed 06/20/23 in TXSD Page 5 of 5
Restaurants face labor shortages during back-to-school season, Axios

Learn more



1 of 157

EXHIBIT NO. 088

DEFENDANT'S EXHIBIT

CASE NO. 63-0007

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

STATE OF TEXAS, *et al.*,

Plaintiffs,

vs.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, *et al.*,

Defendants, and

VALERIE LAVEUS, *et al.*,

Intervenor Defendants.

CIVIL ACTION No.
6:23-CV-00007

JUDGE DREW B. TIPTON

**INTERVENOR DEFENDANTS’
TAB 88, ECF 175-23**



Regional

Labor Shortages, Supply Chain Woes Slow Texas Recovery

Laila Assanie and Carlee Crocker

June 24, 2021

The Texas economy is on the path to a solid recovery, although the pace of growth has eased since March, recent data suggest.

High-frequency indicators, such as initial unemployment claims, consumer spending, dining out and daily COVID-19 cases, show continuing improvement. Texas Business Outlook Surveys (TBOS) data for May point to slowing but still-solid expansion in manufacturing and continued robust growth in services.

Supply-side complications, such as difficulty finding workers, widescale shortages of materials, long lead times and transportation issues, are restraining growth.

Activity in the Texas residential real estate sector is red hot. Home sales remain elevated, and home prices continue to rise swiftly. Apartment rents and demand are also growing rapidly following some weakness in 2020.

Employment Growth Moderates

Texas jobs have expanded at a robust 4.0 percent year to date through May though growth moderated in April and May (*Chart 1*). The latest activity, observed in May, reflected sluggish growth in goods sector employment—

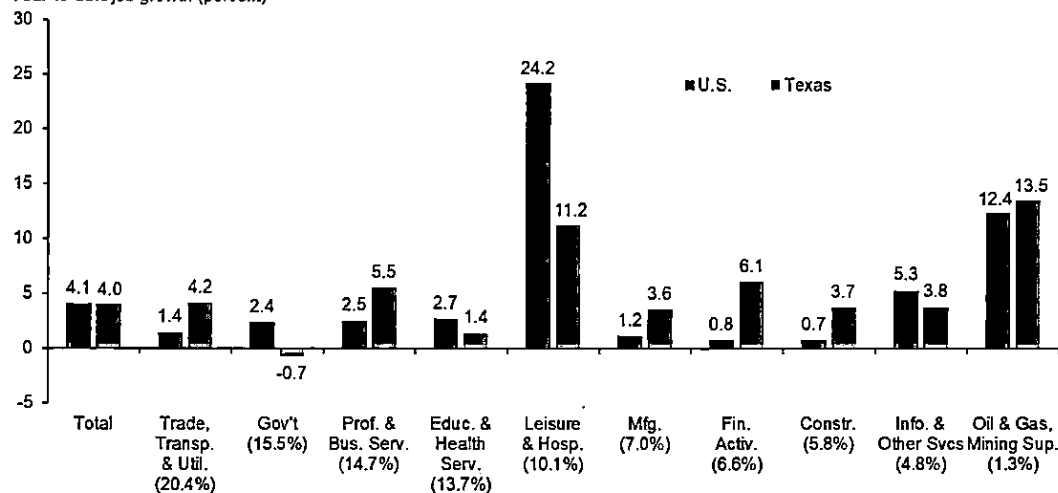
EXHIBIT
22

6/19/23, 6:56 PM Case 6:23-cv-00007 Document 175-23 Filed 06/20/23 in TXSD Page 2 of 6

consistent with widespread supply chain disruptions and labor shortages. So far this year, employment growth among major Texas metros has also been healthy, led by Austin at an annualized 6.1 percent.

Chart 1
Texas Employment Growth Outpaces U.S. in Most Industries Through May

Year-to-date job growth (percent)



NOTES: Data show May 2021/Dec. 2020 annualized growth. Numbers in parenthesis indicate share of total state employment for May.

SOURCES: Bureau of Labor Statistics; Texas Workforce Commission; Federal Reserve Bank of Dallas.

Federal Reserve Bank of Dallas

The Texas unemployment rate dipped to 6.5 percent in May. Unemployment among minorities and those without a college degree has improved in recent months, as leisure and hospitality and others in the service sector fully reopen; however, jobless levels remain stubbornly high.

The three-month moving average unemployment rate for non-Hispanic Black Texans was 10.1 percent in May and 7.8 percent for Hispanics. The unemployment rate for Texans without a high school diploma was 10.0 percent, compared with 7.1 percent for high school/GED graduates. The long-term unemployment rate—those unemployed more than 26 weeks—is creeping up as well.

Labor Demand Outpaces Supply

Labor demand appears to be elevated at a time of limited supply, according to the May TBOS. About half of Texas firms are trying to fill open positions, with a majority of those looking for workers finding the search difficult, particularly for low-skill positions.

Nearly all respondents (98 percent) looking to fill low-skill jobs cited difficulty in their search, up from 81 percent in early 2019. To improve hiring, more than 70 percent of TBOS respondents seeking new workers said they raised wages across skills levels.

Wages are rising at above-average rates in the Dallas Fed Eleventh District as well as the Richmond, New York and Philadelphia districts. The Conference Board/Burning Glass Help Wanted OnLine Index for Texas, a measure of online job postings in the state, rose in May, remaining near multiyear highs and above its February 2020 level.

Expanded Unemployment Benefits Set to End

6/19/23, 6:56 PM Case 6:23-cv-00007 Document 175-23 Filed 06/20/23 in TXSD Page 3 of 6

Approximately 960,000 Texans received federal unemployment benefits as of May 29. This included self-employed and gig workers. An additional 210,000 recipients received a \$300 per week federal supplemental pandemic aid payment in addition to regular state-administered benefits.

With Texas opting out of federal COVID-19 unemployment assistance after June 26, this withdrawal of funding amounts to a statewide income loss of \$2.9 billion per month. Those losing all benefits would, on average, need a job that pays about \$17.33 an hour to replace benefits, excluding transportation and child care costs associated with a return to work.

The impact of the action on the Texas labor market is unclear. While it may ease labor shortages, the aid loss could also curtail overall spending. Consumer spending, roughly 13 percent above prepandemic levels in late May, has been impacted less than expected during the COVID-19 outbreak because of federal stimulus payments and expanded jobless benefits.

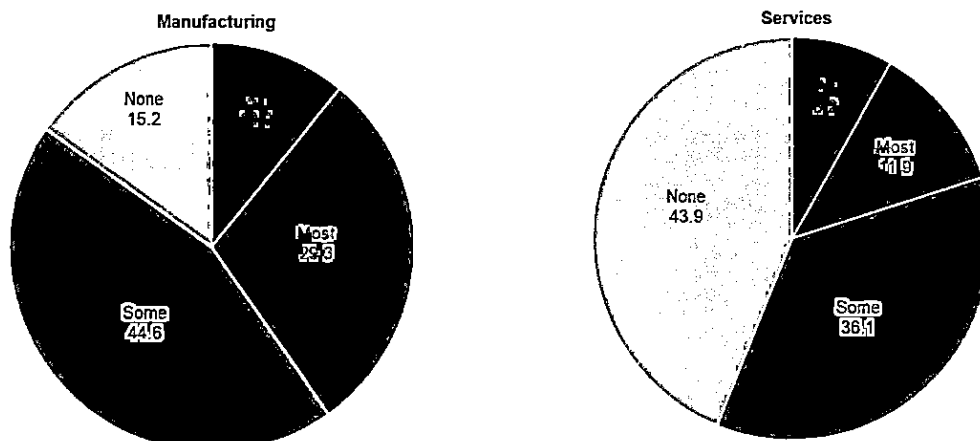
Upward Price Pressures Intensify; Pass-Through Mixed

Price pressures have increased, particularly in sectors where labor and material shortages are most acute. Pass-through to customers, however, is mixed, with manufacturers reporting greater pricing power than services firms due to exceptionally strong demand and wider acceptance of price hikes.

In May, only 15.2 percent of manufacturing firms responding to TBOS could not pass on cost increases to customers, compared with 43.9 percent of services firms (*Chart 2*).

Chart 2
Manufacturers More Able to Pass on Cost Increases than Services Firms

Share of respondents (percent)



NOTE: Respondents were asked, "If costs (including wages) are increasing, to what extent are you passing the higher costs on to customers in the way of price increases?"

SOURCE: Dallas Fed Texas Business Outlook Surveys Special Questions.

Federal Reserve Bank of Dallas

Among firms able to pass on higher costs, 54 percent said they are raising prices this year, 11 percent will do so next year, and 23 percent said they will undertake increases both this year and in 2022.

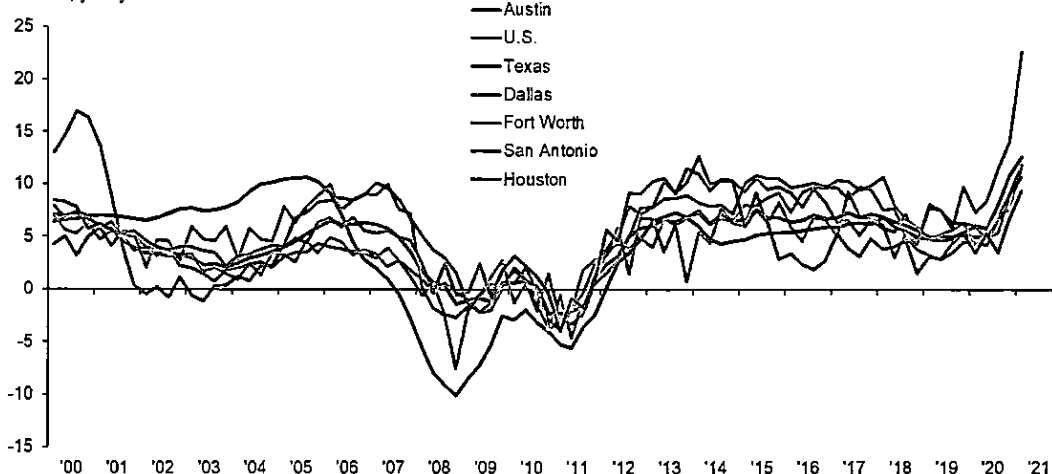
Housing Market Is Red Hot

6/19/23, 6:56 PM Case 6:23-cv-00007 Document 175-23 Filed 06/20/23 in TXSD Page 4 of 6

Home-price gains continued, reflecting a significant imbalance between supply and demand. All major Texas metros experienced strong home-price growth in the first quarter, according to the Federal Housing Finance Agency's House Price Index (*Chart 3*).

Chart 3
Home-Price Increases Show No Sign of Slowing Across Texas' Major Metros

Percent, year/year*



*Quarterly, seasonally adjusted.

NOTE: Data show repeat sales indexes, which adjust for the size and location of each home sold.

SOURCE: Federal Housing Finance Agency.

Federal Reserve Bank of Dallas

Year-over-year home-price increases in Austin set a record in the last quarter; the real median sales price jumped from \$331,000 in May 2020 to \$448,000 in May 2021. With costs escalating rapidly, homebuilders are adjusting prices much more quickly than usual, and many inventory homes are selling above asking price. As a result, a majority of builders in Texas note difficulty obtaining appraisals high enough to reflect the final sale price.

Existing-home sales ticked up in May, suggesting continued strong demand and pushing Texas' median home sales price to a new high. The median sales price in all major Texas metros is also at or near a record high. In this robust housing market, existing and new home inventories remain tight, and builders are restricting sales because of growing order backlogs, extended building-cycle times, shortages of lots, labor and materials, and escalating costs.

Multifamily Housing Demand Surges

Apartment demand gained momentum in April and May, pushing up occupancy and rents across all major Texas metros. Year-over-year rent growth in May was 7.1 percent in Austin, 7.0 percent in Dallas-Fort Worth, 5.8 percent in San Antonio and 4.2 percent in Houston, according to ApartmentData.com.

Occupancy also remains elevated in part due to a COVID-19-related eviction moratorium. With the prime leasing season ramping up, continued upward momentum in rents is expected.

Most renters living in professionally managed market-rate apartments continue to make payments on time—96 percent of Texas renters in May had fully or partially paid rent for the month, on par with the share who paid rent in May 2020. Real estate investment activity has picked up as well, particularly for multifamily and industrial properties.

Office Markets Still Weak, Though Texas Better Positioned than U.S.

While activity in most sectors, including leisure and hospitality has turned the corner, office markets remain weak, with vacancy rates still edging up and rents flat to down in all major Texas metros.

Leasing activity is expected to remain sluggish over the next six to 12 months, though Texas office markets appear better positioned than those elsewhere in the country given the notable increase in high-skilled worker migration to the state since spring 2020 and a pickup in corporate relocations.

The share of workers going into the office in Austin, Dallas and Houston is nearing 50 percent, about 16 percentage points higher than an average of 10 large U.S. metros, according to building operator Kastle Systems.

Business Sentiment Optimistic; Uncertainty Increases

Outlooks remain positive, though uncertainty among manufacturers and homebuilders has increased. The 2021 Texas employment forecast of 4.1 percent suggests that it is unlikely that all jobs lost since the beginning of COVID-19 in 2020 will be recovered by year-end.

Texas Economy 360: June...



About the Authors



Laila Assanie

Assanie is a senior business economist in the Research Department at the Federal Reserve Bank of Dallas.



6/19/23, 6:56 PM Case 6:23-cv-00007 Document 175-23 Filed on 06/20/23 in TXSD Page 6 of 6
Monterages, Supply Chain, and Low-Income Recovery - Dallas Fed

Carlee Crocker

Crocker is a research analyst in the Research Department at the Federal Reserve Bank of Dallas.

The views expressed are those of the authors and should not be attributed to the Federal Reserve Bank of Dallas or the Federal Reserve System.

8 of 157

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**DEFENDANT'S
EXHIBIT**

CASE
NO. 6:23-cv-00007

EXHIBIT
NO. 089

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

STATE OF TEXAS, *et al.*,

Plaintiffs,

VS.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, *et al.*,

Defendants, and

VALERIE LAVEUS, *et al.*,

Intervenor Defendants.


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CIVIL ACTION No.  
6:23-CV-00007

JUDGE DREW B. TIPTON

**INTERVENOR DEFENDANTS'**  
**TAB 89, ECF 175-24**

## Texas Nursing Home Associations Ask the Legislature to Address Critical Workforce Shortage

 [txhca.org/press\\_room/texas-nursing-home-associations-ask-the-legislature-to-address-critical-workforce-shortage](https://txhca.org/press_room/texas-nursing-home-associations-ask-the-legislature-to-address-critical-workforce-shortage)



### Press Room ▼

September 14, 2021

**For Immediate Release**

**CONTACT: Cara Gustafson**

**September 14, 2021**

**(561) 797-8267**

### **Texas Nursing Home Associations Ask the Legislature to Address Critical Workforce Shortage**

*The profession has struggled with staffing shortages for years, made worse by the COVID-19 pandemic.*

Austin, Texas – Texas Health Care Association (THCA) and LeadingAge Texas are urging the Texas Legislature to address the staffing crisis in nursing homes during the third special session. The direct-care workforce has been at critical shortage levels made worse by the pandemic. In a recent member survey, 70% of long-term care facilities cited that they are unable to hire enough nurses and over 30% have restricted new admissions due to staffing shortages.

“Since the beginning, COVID-19 has disproportionately affected long-term care residents as well as the frontline staff who care for them,” said Kevin Warren, President and CEO of THCA. “The ongoing fight against COVID-19 and now the Delta variant has continued to make it difficult for nursing homes to attract staff to the profession and retain them due to a hyper-competitive labor market for direct-care staff.”

THCA and LeadingAge Texas are voicing support for solutions that would help address short-term and long-term staffing shortages by drawing on American Rescue Plan Act (ARPA) funds allocated to Texas. In total, Texas has received approximately \$16.7 billion to respond to the COVID-19 emergency, which Governor Abbott directed the Legislature to allocate during the third special session beginning September 20. THCA and LeadingAge

**EXHIBIT**  
**23**

Texas are asking for 400 million, or less than 3% of the state's total funds, to support efforts to recruit and retain more staff so older Texans continue to have access to care in over 1,200 Texas nursing homes.

THCA and LeadingAge Texas proposal to the Texas Legislature to support the nursing home workforce would direct funding to:

1. Address current recruiting and hiring needs through sign-on bonuses, overtime pay, use of direct care agency staffing support, and employing a designated, facility-based position of infection prevention specialists.
2. Improve staff retention programs to include frontline staff bonus and hero pay.
3. Support student loan repayment assistance programs for nurses working in long-term care and the training and testing costs for temporary nurse aides to become Certified Nurse Aides (CNAs).
4. Implement LVN to RN Bridge Programs that allow Licensed Vocational Nurses (LVNs) to use their previous experience and educational backgrounds to attend "bridge" or transition courses to complete the Associate Degree Nursing curriculum in an accelerated process.

Many nursing homes in Texas have seen monthly costs increase by two to three-fold and quickly outspend the support provided through federal public health emergency funding which is set to expire at the end of the year. Unfortunately, the effects of COVID-19 are far from over, and these facilities need ongoing support to hire and train skilled staff.

"By creating career paths to attract Texans to enter long-term health care and providing nursing homes with the necessary resources to pay them livable wages, we can build a workforce to secure the future of our field and ensure seniors are taken care of in their later years," said George Linial, President and CEO of LeadingAge Texas.

For questions about the proposed plan or to set up an interview, please reach out to Cara Gustafson at (561) 797-8267 or [cara@publicblueprint.com](mailto:cara@publicblueprint.com).

###

#### **About THCA**

*Founded in 1950, the Texas Health Care Association (THCA) is the largest long-term care association in Texas. THCA's membership is comprised of several hundred licensed nonprofit and for-profit skilled nursing facilities (SNFs), specialized rehabilitation facilities and assisted living facilities in Texas. These facilities provide comprehensive, around-the-clock nursing care for chronically ill or short-term residents of all ages, along with rehabilitative and specialized medical programs. To learn more, visit <http://txhca.org/> or connect with THCA on Facebook or Twitter.*

### **About LeadingAge Texas**

*LeadingAge Texas was established in 1959 as a Texas not-for-profit corporation to provide leadership, advocacy, and education for not-for-profit retirement housing and nursing home communities that serve the needs of Texas retirees. As a trade association representing the full continuum of mission-driven, not-for-profit aging services providers, LeadingAge Texas is committed to assisting its members in providing the highest quality of services possible to the residents they serve.*



2 of 157

AO386-B

**DEFENDANT'S  
EXHIBIT**

CASE  
NO. 6:23-CV-86007

EXHIBIT  
NO. 090

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

STATE OF TEXAS, *et al.*,

*Plaintiffs,*

vs.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, *et al.*,

*Defendants, and*

VALERIE LAVEUS, *et al.*,

*Intervenor Defendants.*

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CIVIL ACTION No.  
6:23-CV-00007

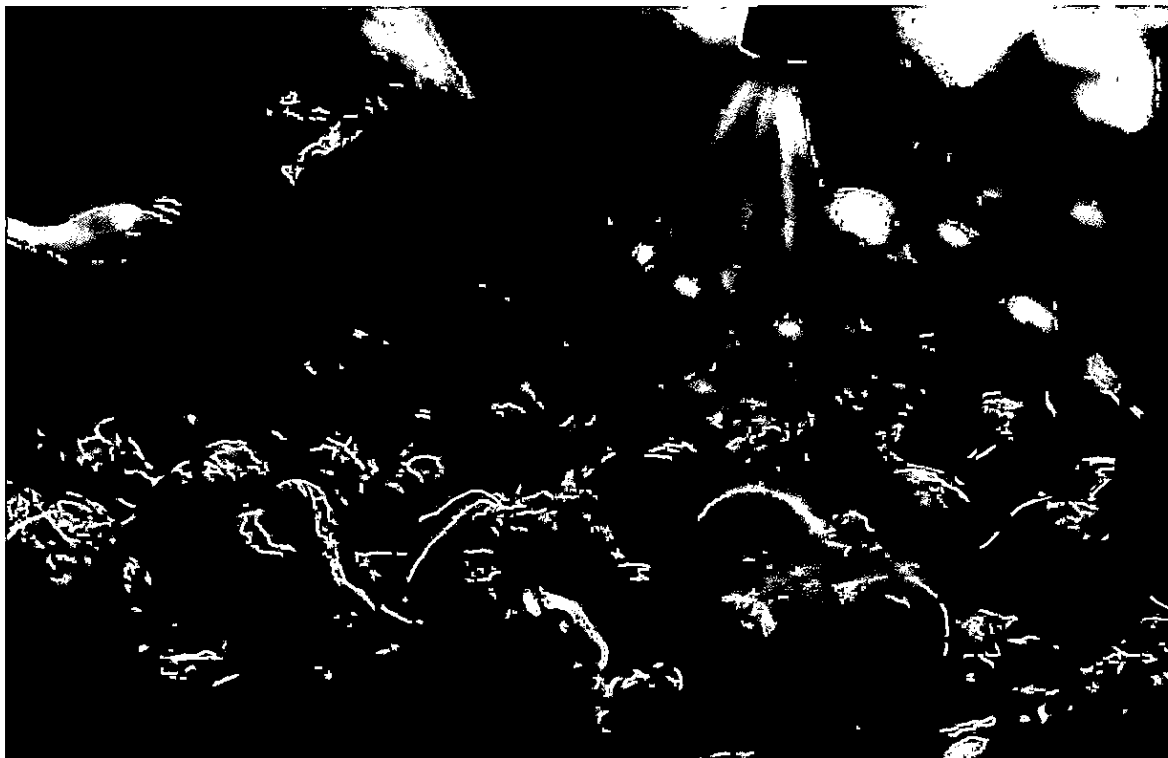
JUDGE DREW B. TIPTON

**INTERVENOR DEFENDANTS’  
TAB 90, ECF 175-25**

## Without enough workers in the U.S. to fill jobs, ranches and farms in Texas look abroad

[kut.org/politics/2022-12-21/without-enough-workers-in-the-u-s-to-fill-jobs-ranches-and-farms-in-texas-look-abroad](https://kut.org/politics/2022-12-21/without-enough-workers-in-the-u-s-to-fill-jobs-ranches-and-farms-in-texas-look-abroad)

December 21, 2022



Jorge Sanhueza-Lyon

/

KUT

Jay Bragg, the associate director of the commodity and regulatory activities division at the Texas Farm Bureau, said it's hard to find workers in rural communities to help on farms.

*This is the first story in an ongoing Texas Newsroom project exploring H-2A visas.*

No state has more ranches or farms than Texas, which produces everything from cotton and corn to cattle and watermelons. Last year, the agriculture industry brought in nearly \$25 billion in revenue.

But farmers continue to face a significant challenge: a labor shortage.

**EXHIBIT  
24**

"It's quite important, and it's just because of the type of work — it's really hard, hard work," said Luis Ribera, the director of the Center for North American Studies at Texas A&M University. "And domestic workers, they'd rather work somewhere else."

As a result, the demand for foreign agricultural workers has hit an all-time high, and experts say the trend could continue even though the program that brings workers into the country, H-2A, is ripe for exploitation.

## Demand soars

The H-2A program was created in 1986 through the Immigration Reform and Control Act. The legislation split what was then known as the H-2 program, creating H-2A visas for temporary agricultural workers and H-2B visas for non-agricultural temporary workers.

According to the Washington, D.C.-based Bipartisan Policy Center, "the goal of the H-2A program remained identical to that of the overall H-2 visa program, which was to meet the United States' temporary and seasonal labor needs without adding to the country's permanent population."

Ribera said Congress also wanted to have a better understanding of — and more control over — who was coming into the country.

Before the H-2A program, "there was more easy access to the U.S. for these workers," Ribera said. "They will just come as crews, they'd come to the U.S., they'd harvest their crops, and they'd start moving from the South towards the North — [and] when they were done, they would go back [home]."

The H-2A program has grown exponentially since its inception — and saw an especially big increase in demand in recent years.

An analysis by The Texas Newsroom of nearly a decade's worth of data from the U.S. Department of Labor found a 36% increase in demand for H-2A workers from 2021 to 2022. In the 2022 fiscal year, which ended on Sept. 30, 11,655 H-2A positions were certified in Texas. In 2021, 8,553 positions were certified.

Texas came in ninth for the most H-2A positions certified in the U.S. during the 2022 fiscal year. Overall, the state accounts for 3% of the total 371,619 H-2A positions certified over that period.

Jay Bragg, the associate director of commodity and regulatory activities at the Texas Farm Bureau, said the latest jump in demand for foreign workers is surprising because it's so steep.

"But it's not surprising that the numbers continue to increase," Bragg said. "We're to a point, particularly after COVID, [where] it is extremely difficult to find help."

Bragg said people in rural communities are either moving to cities or just don't want labor-intensive jobs where conditions are harsh and wages are not as high as in other industries.

In Texas, the minimum an H-2A worker can make is \$14.87 an hour. The state's minimum wage is \$7.25.

## Big players — workers and cities

---

Farmers in rural Texas rely heavily on H-2A workers to harvest crops each season.

Most H-2A positions are in the rural communities of Dalhart (6,043 H-2A positions), Coyanosa (1,745 H-2A positions), and Giddings (1,457 H-2A positions), according to data analyzed by The Texas Newsroom.

In Dalhart — a city in the panhandle with a population of about 8,300 — many of the H-2A workers assist in harvesting potatoes. In the West Texas desert village of Coyanosa, workers harvest watermelons and cantaloupes. In Giddings, H-2A recipients work in either nurseries or on construction related to agriculture.

Three of the five employers with the most requests for H-2A workers in Texas are based in those cities: Blaine Larsen Farms Inc. (Dalhart), Mandujano Brothers (Coyanosa), and Altman Specialty Plants, Inc. (Giddings).

Experts say the H-2A program could positively impact the economies of these rural communities because workers spend their wages locally, at places like grocery stores and restaurants.

But the program can be difficult for employers to navigate and is ripe for worker exploitation.

Employers in need of labor must first try to recruit domestically. If they can't find enough workers, they apply for what's known as a temporary labor certification with the U.S. Department of Labor — a designation that allows them to seek labor abroad.

The agency then decides whether to approve all, part or none of the H-2A positions requested by the employer. Once positions are approved, the employer has to complete additional paperwork with the U.S. Citizenship and Immigration Services. Then, foreign workers may apply for H-2A visas, a process that includes an interview with their local U.S. consulate.

The cost for an employer during this process could be more than \$20,000 per season, and visas still might be declined. (That's why the number of H-2A workers that actually come to the U.S. is lower than the number of positions certified.) Employers are also required to provide housing at no cost for the workers once they're in the U.S.

Many H-2A workers, on the other hand, face abuse and illegal treatment from their employers, including wage theft.

For example, earlier this year the U.S. Department of Labor found Blaine Larsen Farms didn't pay its foreign or domestic workers all of the wages they were legally owed. The federal agency recovered \$1.3 million in backwages.

Rachel Micah-Jones, founder of the transnational migrant rights organization Centro de los Derechos del Migrante Inc., told The Texas Newsroom that H-2A workers face violations of their rights "from the moment they are recruited to work in the United States."

"Often at the time workers are recruited, they are being forced to pay large sums of money to get those jobs," Micah-Jones said.

According to the Legal Aid of North Carolina, recruiters on behalf of U.S. companies have illegally told "jobseekers that in order to have a job they must pay hundreds or thousands of dollars in fees 'to get their name on the list', and to have a shot at getting the guestworker visa."

Micah-Jones said some workers do not receive their promised wages or housing once in the U.S.

She said that because the H-2A program is essentially "employer-controlled," workers have fewer rights, shying away from reporting abuse allegations because they fear retaliation or being blacklisted.

"Workers cannot self-petition for H-2A visas," Micah-Jones said. "What we're doing in the U.S. is really privatizing our immigration system by giving these employers the ability to decide where they go to recruit abroad, who they recruit, and under what conditions."

She and other advocacy groups argue that H-2A workers should self-petition for the visas instead of getting them through employers. That way, workers who face abuse would not lose their visas if they decide to leave their employer.

Since starting her nonprofit, Micah-Jones said she's seen the H-2A program grow fivefold. "So, we've seen this kind of unabated growth, and I think if there was widespread enforcement, if employers offered higher wages ... I think [demand] might look slightly different."

6/19/23, 6:58 PM Case 6:23-cv-00007 Document 175-25 Filed 06/20/23 in TXSD Page 5 of 5  
Without enough workers to fill jobs, ranches and farms in Texas look abroad | KUT Page, Austin's NPR Station